



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

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**Date:** July 7, 2015  
**To:** Interested Person  
**From:** Brandon Rogers, Land Use Services  
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**NOTICE OF A TYPE IIx 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 14-165784 LDS**

**GENERAL INFORMATION**

**Applicant:** Mike Coyle / Faster Permits  
 14334 NW Eagleridge Lane / Portland OR 97229

**Owner:** Mark Wilde / Wilde Properties Inc.  
 3735 SE Clay St / Portland OR 97214

**Site Address:** NE Corner of SE 63<sup>rd</sup> Avenue and SE Cooper Street. The site is vacant and has no assigned address.

**Legal Description:** BLOCK 30 LOT 7, BRENTWOOD & SUB; BLOCK 30 LOT 8 EXC W 91', BRENTWOOD & SUB

**Tax Account No.:** R099914420, R099914470

**State ID No.:** 1S2E20BB 08900, 1S2E20BB 11400

**Quarter Section:** 3737

**Neighborhood:** Brentwood-Darlington, contact David Messenheimer at [trimess@hotmail.com](mailto:trimess@hotmail.com)

**Business District:** Eighty-Second Ave of Roses Business Association, contact Frank Harris at 503-774-2832.

**District Coalition:** Southeast Uplift, contact Bob Kellett at 503-232-0010.

**Plan District:** None

**Zoning:** Residential 2,500 (R2.5) with the "a" Alternative Design Density overlay zone.

**Case Type:** Land Division Subdivision (LDS)

**Procedure:** Type Iix, an administrative decision with appeal to the Hearings Officer.

**Proposal:**  
 The applicant proposes to divide a 24,200 square foot site into a nine-lot subdivision for development of detached, single family houses. Lot sizes range from 2,430 to 3,714 square feet in size. Lots 1-8 are proposed to be narrow lots ranging from 25 to 33 feet in width, narrower than the 36-foot standard lot width for the R2.5 zone. Lot 9 is proposed to be 36 feet wide, and

is not a narrow lot. Street improvements along the frontage of the site will include curb, gutter, sidewalk and paving improvements along SE 63<sup>rd</sup> Avenue and SE Cooper Street. Sanitary sewer and water will be extended in SE Cooper Street to serve the proposed lots located on SE Cooper Street, while existing water and sanitary sewer services will serve lots facing SE 63<sup>rd</sup> Ave. On-site drywells are proposed for stormwater management.

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

For purposes of State Law, this land division is considered a subdivision. To partition land is to divide an area or tract of land into four or more lots within a calendar year (See 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 nine units of land. Therefore this land division is considered a subdivision.

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

## FACTS

**Site and Vicinity:** The site is currently vacant. The topography of the site is primarily level, with a change in grade of approximately one foot across the site. The surrounding neighborhood consists of primarily single dwelling development, with both paved and gravel streets without sidewalks. Lane Middle School and Brentwood Park are located in close proximity to the site.

### Infrastructure:

- **Streets** – At this location, the City’s Transportation System Plan (TSP) classifies both SE Cooper Street and SE 63<sup>rd</sup> Avenue as Local Service Streets for all modes. According to City GIS, SE Cooper Street is a 50-ft unimproved ROW (no paving, curb, or sidewalk). SE 63<sup>rd</sup> Avenue is a 50-ft ROW improved with 28-ft of center strip paving with no curb or sidewalk. For a Local Service Street, the City’s public right-of-way document requires a 56-ft ROW which will accommodate a 26-ft wide paved roadway (parking on both sides) and two 15-foot sidewalk corridors (0.5-ft curb/8-ft stormwater facility/6-ft sidewalk/0.5-ft frontage zone). The site has approximately 100 feet of frontage on SE 63<sup>rd</sup> Avenue and 241 feet of frontage on SE Cooper Street. Tri-Met provides transit service approximately 750 feet north of the site at SE Duke Street via Bus 19.
- **Water Service** – There is an existing 6-inch water main in SE 63<sup>rd</sup> Avenue. There is no water main located in SE Cooper Street. There is no existing water service to the site.
- **Sanitary Service** - There are existing 8-inch sanitary sewer lines in SE 63<sup>rd</sup> Avenue and SE Cooper Street. The sanitary sewer line in SE Cooper Street terminates near the west property line of the site.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The R2.5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

**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 3, 2014**. Three written responses have been received from the Neighborhood Association and notified property owners in response to the proposal. The comments express concerns with on-street parking, pedestrian safety, street improvements on SE Cooper Street, density and narrow lots (skinny houses), proposed comprehensive plan changes for the area and impacts to the character of neighborhood.

**Staff Response:** Portland Bureau of Transportation (PBOT) has reviewed the proposal for compliance with the Transportation Impacts approval criteria of Title 33 and the Street Classification requirements of Title 17, as discussed in Section K, below. The response from PBOT (Exhibit E2) includes an analysis of on-street parking impacts and safety for all modes of transportation. Additionally, PBOT will require street improvements to SE Cooper Street and SE 63<sup>rd</sup> Avenue including curbs, sidewalks and street paving improvements. The applicant has provided a Transportation Analysis, which was reviewed by PBOT as part of the analysis (Exhibit A.5).

Density, lot sizes and compatibility with existing lots are discussed below in Section A, Lots. The draft recommended Comprehensive Plan has not been adopted by the Portland City Council. According to the Bureau of Planning and Sustainability, the City Council may make a decision on the draft plan in January of 2016. The proposed land division must be reviewed under the current zoning of the site.

## 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	The applicant has provided an Arborist Report (Exhibit A.3) showing that the three cherry trees located on the site are exempt from tree preservation because they are arborescent shrubs according to the Portland Plant List, and not trees.
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	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Lots 1 through 6 are on the north side of an east-west oriented street, and are considered interior lots (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots.  Lots 7 and 8 are on the west side of a north-south oriented street, and are considered interior lots

		<p>(not on a corner). Lot 9 is a corner lot and is wider than lots 7 and 8. The solar access standards would require Lot 9 to be narrower than lots 7 and 8. However, in this case, lot 9 must be wider to provide for adequate separation of the proposed driveway from SE Cooper Street.</p> <p>The Solar Access Approval Criteria are superseded by other conflicting requirements in the 600's chapters of the Zoning Code, per 33.639.020. The proposed land division layout was in part dictated by the need to provide a safe driveway connection to the public street, per Chapter 33.641. The Portland Bureau of Transportation generally requires that driveways be placed at least 25 feet from the intersection of streets. Lot 9 must be wider than Lots 7 and 8 in order to meet this requirement.</p> <p>In this proposal, the site layout necessary to meet 33.641 is in conflict with the solar access criteria. Those other requirements supersede 33.639; therefore, the solar access criteria do not apply.</p>
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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The maximum density is one unit per 2,500 square feet. Minimum density is one unit per 2,500 square feet based on 80 percent of the site area. The 24,200 square foot site has a minimum required density of 8 units and a maximum density of 9 units. The applicant

is proposing 9 single dwelling lots. The density standards are therefore met. The lot dimensions required and proposed are shown in the following table:

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R2.5 Zone</b>	1,600	NA	36	40	30
Lot 1	2,432		25	97	25
Lot 2	2,430		25	97	25
Lot 3	2,428		25	97	25
Lot 4	2,427		25	97	25
Lot 5	2,427		25	97	25
Lot 6	2,427		25	97	25
Lot 7	2,939		32	89	32
Lot 8	2,912		32	89	32
Lot 9	3,300		36	88	36

\* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

### **Narrow Lots**

Lots 1 through 8 are narrower than the 36-foot minimum lot width for the R2.5 zone, as shown in the table above, and Lot 9 exceeds the minimum lot width. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of 33.611.200.C, as discussed below.

### ***On balance, the proposed lots will have dimensions that are consistent with the purpose of this section.***

The purpose of Lot dimension regulations are as follows:

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

The applicant has demonstrated that the proposed Lots 1-8 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided a proposed improvements plan (Exhibit C.3) showing examples of building footprints meeting all applicable setback requirements and oriented towards the street. Therefore it has been demonstrated that the proposed lots can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan (Exhibit C.4) demonstrating that each lot has access for utilities and services.
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street.
- The proposed narrow lots are compatible with existing lots because the zoning map (Exhibit B) shows three narrow lots on the east side of SE 63<sup>rd</sup> Ave and four narrow lots on the west side of SE 64<sup>th</sup> Ave, between SE Duke Street and SE Cooper Street.

### ***The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet***

- The lots will be developed with detached houses; however, all of the proposed lots are at least 25 feet wide.

***If the lot abuts an alley, then vehicle access is allowed only from the alley***

- The site does not have access from an alley, so this standard does not apply.

***Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development***

- The applicant has demonstrated, with Exhibit C-3 that Lots 7 and 8 and will be built with a house that is greater than 22 feet in width and will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. Attached garages are not proposed or allowed for Lots 1 through 6. The applicant has proposed shared driveways with garages at the rear of these lots, so the garages will be located behind the street facing building facade. Compliance with this standard can be demonstrated if a reciprocal access easement is shown and labeled on the final plat, and with a condition that Lots 1-6 must take vehicle access from this easement. The garage limitation standards of Subsection 33.110.253.E can be met.

***60 percent landscaping requirement for attached houses***

- The applicant has indicated that Lots 1-6 will be developed with detached houses; therefore, this requirement does not apply.

***If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.***

- Parking is required. Therefore, the garage limitation requirements described above must be met.

The findings above show that the applicable density and lot dimension standards are met. Therefore, with conditions of approval, 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 lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. The applicant has stated (Exhibit A.1) that clearing and grading will meet all applicable approval criteria. This criterion is met.

***Land Suitability***

The site is vacant, 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.

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

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply. The following easements are proposed and/or required for this land division:

- Reciprocal Access Easements are proposed to allow shared use of driveways that will straddle proposed lot lines to provide shared driveways as follows; Lots 1 and 2; Lots 3 and 4; Lots 5 and 6 (Exhibit C.3).

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is

prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block substantially similar to the following example:

*“A Declaration of Maintenance agreement for shared driveways has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

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

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

**Findings:** 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. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. PBOT has provided the following findings (Exhibit E.2):

The regulations of this Chapter allow the traffic impacts caused by dividing and developing land to be identified, evaluated, and mitigated if necessary. 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. To address the approval criteria, the applicant submitted a professional transportation analysis prepared by Lancaster Engineering (Exhibit A.5).

**Street Capacity and Level-of-Service**

Based upon trip generation estimates, ITE Trip Generation Manual, 9th Edition, the proposed 9 new single-family dwellings will generate 7 additional trips during the morning peak hour and 9 additional trips in the evening peak hour, with 86 additional trips in total each day.

Per Administrative Rule TRN-10.27, Traffic Capacity Analysis for Land Use Review Cases, For traffic impact studies required in the course of land use review or development, the following standards apply: For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement. After discussions with PBOT, the applicant included the following intersections in their analysis: SE Duke/SE 62<sup>nd</sup>; SE Duke/SE 63<sup>rd</sup>; SE Cooper/SE 62<sup>nd</sup>; SE Cooper/SE 63<sup>rd</sup>.

The applicant's traffic consultant conducted on-site observational analysis of the study intersections on Tuesday, September 2<sup>nd</sup>, 2014 during the evening peak period and on Thursday, September 4<sup>th</sup>, 2014 during the morning peak period. All of the study intersections were observed to be operating with little or no delay at LOS B or better. Accordingly, all study intersections currently meet the City's performance standards. When factoring in the additional 86 trips generated by the proposed development, all study intersections will continue to meet the City's performance standards.

**On-street parking impacts**

The parking demand that will be generated as a result of the project was estimated using rates from ITE's Parking Generation, 4th Edition. Based upon this data, the peak parking demand for nine single-family dwellings is projected to be 19 spaces. As proposed, the 6 lots fronting SE Cooper will each have 1 on-site parking space accommodated within garages located at the rear of the homes. The three houses fronting on SE 63<sup>rd</sup> will have sufficient space to accommodate 2 on-site parking spaces per lot (one in the garage and one in space in front of garage) for a project total of 12 on-site spaces.

The applicant conducted on-site observations during the residential peak period and found 10 vehicles parked along SE 63<sup>rd</sup> Avenue between SE Duke and SE Cooper and 9 vehicles parked between SE Cooper and SE Ogden to the south. Additionally, only 9 vehicles were observed

parking along SE 62nd between Ogden Street and Duke Street. No vehicles were observed parked on SE Cooper Street. The applicant estimates that each block along SE 62nd and 63rd (SE Duke-SE Cooper and SE Cooper-SE Ogden) have at least 40 available on-street parking spaces.

The surrounding development pattern includes single-family homes on lots that can accommodate multiple on-site parking spaces and the applicant's analysis indicates that there is very little demand for on-street parking in the vicinity. Further, the applicant has proposed shared access drives for the six lots that front SE Cooper Street. This configuration allows for the preservation of the maximum amount of on-street parking. The results of the applicant's parking study indicate there is a sufficient supply of on-street parking in the vicinity to accommodate existing uses in addition to the demand generated by the proposed development.

Transit facilities are available to serve the proposed development with the closest stop located at the intersection of SE 64th at SE Duke Street approximately 890-ft from the site. The frontage improvements required in conjunction with the proposed development will improve pedestrian connectivity and safety in the area. The proposed subdivision 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 methodology, assumptions and conclusions made by the applicant's traffic consultant. 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:

<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to Lots 7, 8 and 9 from SE 63 <sup>rd</sup> Ave from an existing water main. There is no existing water service on SE Cooper Street. The applicant must make arrangements to extend a new water main in SE Cooper Street to ensure service is available to Lots 1 through 6. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that sanitary sewer service is available to Lots 7, 8 and 9 from SE 63 <sup>rd</sup> Ave. There is no public sanitary sewer available in SE Cooper Street to serve Lots 1 through 6. The applicant must obtain a public works permit to extend the public sewer along SE Cooper Street prior to final plat approval.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – 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: <ul style="list-style-type: none"> <li>• <b>Public Street Improvements:</b> Stormwater from these new impervious areas will be directed into a new public storm drain sump system, constructed by the applicant prior to approval of the final plat.</li> <li>• <b>Lots 1 through 9:</b> Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. BES has indicated conceptual approval of the drywells. A supplemental plan or plumbing code appeal is required prior to final plat approval to demonstrate that all development on each lot can accommodate a stormwater facility that meets the SWMM's minimum setback requirements.</li> </ul>



**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. The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west through street or pedestrian connection provided on the block. However, the site is located at the south terminus of the block, and is not an appropriate location for a through street or pedestrian connection. PBOT has commented that there are no opportunities for improved connectivity in association with this request (Exhibit E.2). In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. The only new through pedestrian connections included in the proposal are new sidewalks along the frontage of the site along SE Cooper Street and SE 63<sup>rd</sup> Avenue. This is a straight-line connection on which users will be able to see the ending of the pedestrian route from the entrance. For the reasons described above, this criterion is met.

**33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment**

At this location, the City's Transportation System Plan (TSP) classifies both SE Cooper and SE 63<sup>rd</sup> as Local Service Streets for all modes. According to City GIS, SE Cooper is a 50-ft unimproved ROW (no paving, curb, or sidewalk). SE 63<sup>rd</sup> is a 50-ft ROW improved with 28-ft of center strip paving (no curb or sidewalk). For a Local Service Street, the City's public right-of-way document requires a 56-ft ROW which will accommodate a 26-ft wide paved roadway (parking on both sides) and two 15-foot sidewalk corridors (0.5-ft curb/8-ft stormwater facility/6-ft sidewalk/0.5-ft frontage zone).

PBOT initially indicated that a 3-ft dedication property for ROW purposes would be required along both roadways to accommodate a public stormwater facility. However, in relation to public stormwater management, the applicant has received approval from BES to discharge to existing sed/sump systems in the area. Accordingly, no additional dedications will be needed to accommodate a vegetated public stormwater facility. In lieu of the 8-ft stormwater facility, the pedestrian corridors on SE Cooper and SE 63<sup>rd</sup> will be required to include a minimum 4-ft furnishing zone. Any additional ROW will be applied to the frontage zone. Additionally, a Driveway Design Exception has been approved to permit the driveway serving Lot 9 to be located 23-ft from the corner in lieu of the standard 25-ft separation (TR-15-170307). The applicant has initiated the Public Works permitting process with the submittal of 14-250602-WT and 14-254888-WE. Its PBOT's understanding that the applicant has already received approval of at least the concept review (phase) of the Public Works permit.

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. To accommodate these improvements, additional right-of-way must be dedicated along the frontage of the site. With those improvements, the proposed development can be safely served by this existing street without having any significant impact on the level of service provided.

With the conditions of approval that public right of way improvements must be completed or bonding/contract must be submitted as identified in the Public Works Concept Review, prior to final plat, this criterion is met.

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

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

## DEVELOPMENT STANDARDS

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

### Future Development

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

- Narrow Lots-- development on Lots 1 through 6 will be subject to the following standards at the time of development permitting:
  - Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
  - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a, for Lots 7, 8 and 9.
  - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet (Lots 1 through 6) per 33.110.253.E.3.b.

**Existing development that will remain after the land division.** The site is currently vacant, 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 R2.5 zone. 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.

Bureau	Code Authority and Topic
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 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements 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 regards to ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; Addressing, fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a 9 lot subdivision, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: narrow lot standards, onsite stormwater management, fire bureau requirements, street improvements, water and sanitary sewer utility extension in SE Cooper Street, reciprocal driveway easements for Lots 1 through 6. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 9-lot subdivision, with Lots 1-8 as narrow lots, that will result in 9 lots for single dwelling development 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 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:

- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Any other information specifically noted in the conditions listed below.

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

1. A 9-foot wide Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Lots 1 and 2; Lots 3 and 4; Lots 5 and 6 as shown on Exhibit C-3. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by B.1. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for Reciprocal Access Easements 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 meet the requirements of the City Engineer for right of way improvements along the site's street frontage. 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 and the Bureau of Environmental Services for required street frontage improvements.

### Utilities

2. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SE Cooper Street. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
3. A supplemental plan or plumbing code appeal is required prior to final plat approval to demonstrate that all development on each lot can accommodate a stormwater facility that meets the SWMM's minimum setback requirements.

4. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SE Cooper Street.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way as required in Appendix D of the Oregon Fire Code.

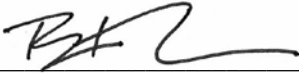
#### **Required Legal Documents**

6. A Maintenance Agreement shall be executed for the Reciprocal Access Easements described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. 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.
2. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal. Please refer to the final plat approval report for details on whether or not this requirement applies.
3. Lots 1-6 must take vehicle access from shared easements as shown on Exhibit C.3, the proposed improvements plan. Driveways are shared between the lots as follows; Lots 1 and 2; Lots 3 and 4; Lots 5 and 6.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **on July 2, 2015**

By authority of the Director of the Bureau of Development Services

#### **Decision mailed July 7, 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 June 5, 2014, and was determined to be complete on **October 28, 2014**.

*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 5, 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 245 days (Exhibit A.6). Unless further extended by the applicant, **the 120 days will expire on: October 28, 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 July 21, 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 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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.

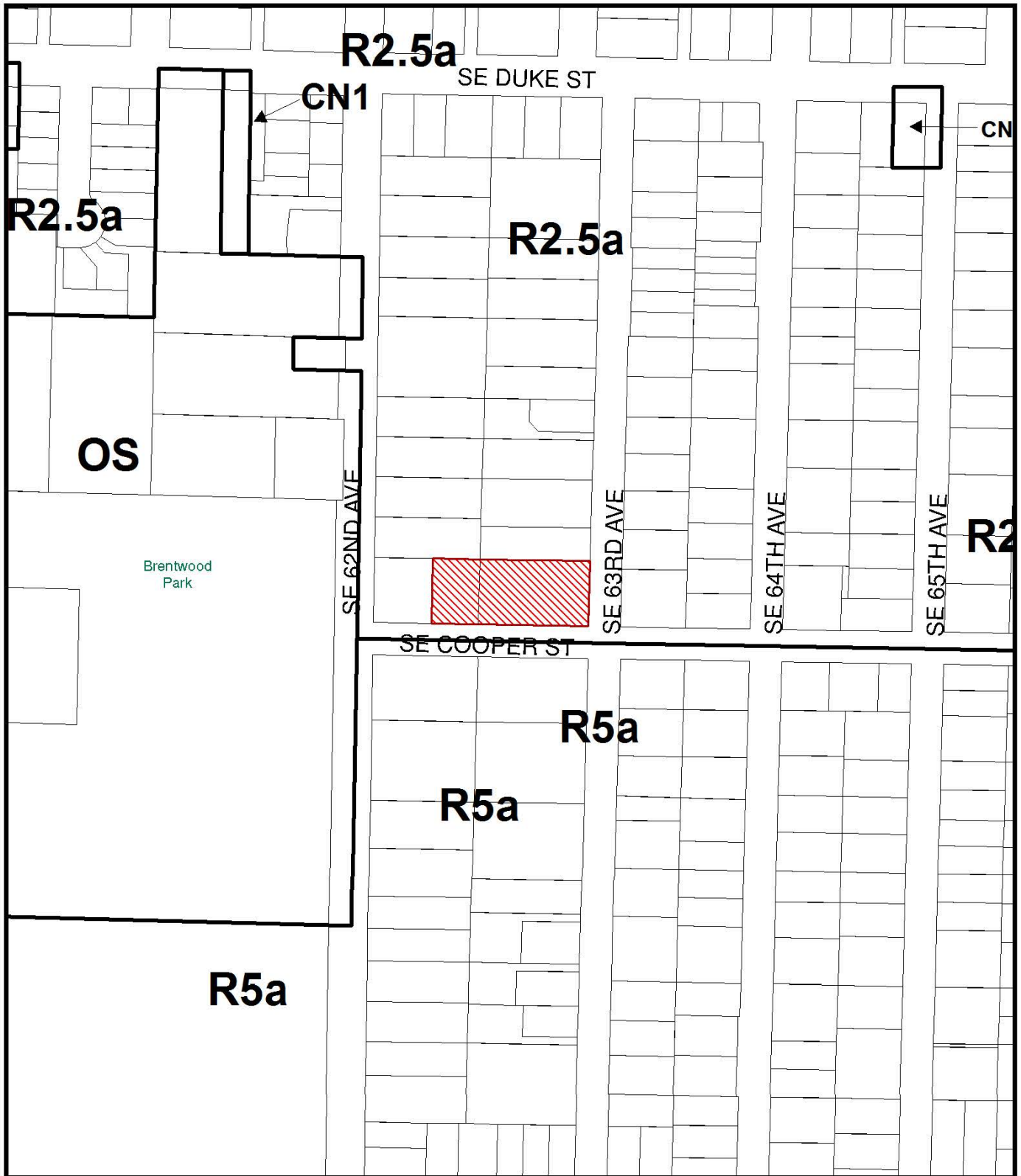
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Submittal
  - 2. Applicant's Response to Incomplete Letter
  - 3. Arborist Report
  - 4. Simplified Stormwater Report/Stormwater Design
  - 5. Transportation Analysis, Lancaster Engineering
  - 6. 120-day Extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Land Division Plan (attached)
  - 2. Existing Conditions Plan
  - 3. Proposed Improvements Plan
  - 4. Preliminary Utility Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Urban Forestry
  - 6. Site Development section of BDS
- F. Correspondence:
  - 1. David Messenheimer, Brentwood-Darlington Neighborhood Association, November 20, 2014
  - 2. Neil Unger, November 11, 2014
  - 3. Ellie Wright, November 11, 2014 – No mailing address provided
- G. Other:
  - 1. Original Land Use Application
  - 2. Incomplete Letter
  - 3. Early Neighborhood Contact
  - 4. Applicant Correspondence

**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 14-165784 LDS  
 1/4 Section 3737  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E20BB 8900  
 Exhibit B (Jun 29, 2015)

