



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** November 28, 2016  
**To:** Interested Person  
**From:** Jason P. McNeil, Land Use Services  
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## **NOTICE OF A TYPE Ix 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 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 16-209033 LDP**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Steve Kreitzberg / Jon Laufenberg  
Phoenix Redevelopment  
516 SE Morrison St, Ste 700  
Portland, OR 97214

**Representative:** Chris Hagerman,  
The Bookin Group Llc  
812 SW Washington St, Ste 600  
Portland, OR 97205

**Site Address:** 6556 SE 69TH AVE

**Legal Description:** BLOCK 7 S 109' OF LOT 9, BRENTWOOD & SUB  
**Tax Account No.:** R099902410  
**State ID No.:** 1S2E20BA 07100  
**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 Nancy Chapin at [nchapin@tsgpdx.com](mailto:nchapin@tsgpdx.com)

**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.

**Plan District:** None  
**Zoning:** R2.5a  
**Case Type:** LDP  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:**

The applicant is proposing a two-parcel land division on this 10,828 square foot lot resulting in one 4,000 square foot lot (Parcel 1) and one 6,828 square foot lot (Parcel 2). The existing home and garage on Parcel 2 will remain. Parcel 1 will be available for a new single dwelling. The applicant is proposing to retain both of the nonexempt trees on the site. Due to this site's proximity to a frequent service bus line, off-street parking is not required.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create two lots. 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 approval criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

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. This application was submitted on July 21, 2016 and determined to be complete on September 28, 2016.

**ANALYSIS**

**Site and Vicinity:** The relatively flat site is currently developed with a two-story single dwelling unit that was built in 1925. There is a detached garage and a driveway located on the site. The surrounding neighborhood is characterized by one and two story single family homes. The street grid is regular and is comprised of mostly paved streets with some unimproved gravel streets mixed in as well. The paved local service streets in the vicinity are improved with curbs but no sidewalks.

**Streets** – The site has approximately 109 feet of frontage on SE 69<sup>th</sup> Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 69<sup>th</sup> Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 210 feet from the site on SE Duke Street via Bus 19.

SE 69<sup>th</sup> Avenue has a 28-foot curb-to-curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 109-foot wide site frontage the pedestrian corridor includes a curb only. There are no sidewalks along this section of SE 69<sup>th</sup>.

**Water Service** – There is an existing 6-inch water main in SE 69<sup>th</sup> Avenue. The existing house is served by a metered service from this main.

**Sanitary Service** - There is an existing 8-inch PVC sanitary-only sewer line in SE 69<sup>th</sup> Avenue.

**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 **October 4, 2016**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	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	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site.
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	No common greens are proposed or required.

	Greens	
	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. Based on the applicant's survey, the site area is 10,828 square feet. The maximum density in the R2.5 zone is one unit per 2,500 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of 4 units and a minimum required density of 2 units. The applicant is proposing 2 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
<b>R2.5 Zone</b>	1,600	NA	36	40	30	40	40
Parcel/ Lot 1	4,000		40	100	40	NA	NA
Parcel/ Lot 2	6,828		68	100	68	NA	NA

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

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

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

**Findings:** The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees.

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.3) that identifies each tree, its condition and suitability for preservation and tree protection measures for each tree to be preserved.

<b>Tree #</b>	<b>Common Name/Scientific Name -Species</b>	<b>Diameter (inches)</b>	<b>Exempt? (per 33.630.030)</b>	<b>To be retained?</b>	<b>RPZ (Root Protection Zone)</b>
<b>1</b>	Flowering dogwood (cornus florida)	12	No	Retain	0
<b>2</b>	Japanese maple (acer palmatum)	3	Yes – within 10 ft. of house	NA	NA
<b>3</b>	Star magnolia (magnolia stellata)	18	No	Retain	0
<b>4</b>	Common lilac (syringia vulgaris)	11	Yes - shrub	NA	NA
<b>5</b>	Douglas –Fir (pseudotsuga menziesii)	24	Yes - offsite	NA	NA
<b>6</b>	Sweet Cherry (prunus Avium)	30	Yes - offsite	NA	NA
<b>7</b>	Japanese photinia (photinia glabra)	9	Yes - shrub	NA	NA
<b>8</b>	English hawthorn (crataegus laevigata)	14	Yes - offsite	NA	NA

Based on this information, two (2) trees, which provide a total of 30 inches of tree diameter, are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition, include native/non-nuisance species, and none of the trees are 20 or more inches in diameter. Both trees proposed for preservation are located on the parcel with the existing house to remain and will be well outside of any disturbance area on the proposed vacant parcel. Therefore, the root protection zones for the trees to be retained will allow for the type of development anticipated in the R2.5 zone and will not conflict with any existing utility easements, proposed services or site grading.

All the trees are less than 20 inches in diameter and the applicant proposes to retain 30 inches of tree diameter, which is equivalent to 100 percent of the total tree diameter, so the proposal complies with Option 4.

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.2).

At the time of development, the individual parcels must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

**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. Should Parcel 2 be redeveloped in the future, Title 11 tree protection requirements will apply. 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 a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

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

**Findings:** 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. Mitigation may be necessary to reduce impacts.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

The proposal is to divide the site in two lots. The vehicle access and parking for the existing house is being retained on Parcel 2.

The minimal expected added vehicle trips (1 am peak hour trip/1 pm peak hour trip/10 total new daily trips) will not adversely impact the operations of area intersections. PBOT has no concerns with regard to any of the other evaluation factors; on-street parking demand does not appear to be significant in the area (existing homes along this segment of SE 69<sup>th</sup> Ave include driveways and garages sized to accommodate at least one vehicle/lot; nearby transit service nor any other mode of travel will not be adversely impacted by the additional home expected to be constructed on Proposed Parcel 1. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

In this case Portland Transportation has determined the existing right-of-way conditions do not satisfy current City Standards as discussed below under 33.654.120. To meet these standards, the construction of the 11-ft sidewalk corridor will be required as part of this land division. No dedication of property for right-of-way purposes will be required. With the sidewalk corridor improvements along this frontage, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

PBOT has reviewed and concurs with the information supplied by the applicant and available evidence. 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 the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – 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.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibit E.1
The applicant has proposed the following stormwater management methods  As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.  <b>Parcel 1:</b> Stormwater from this lot will be directed to a 124-square-foot rain garden that will treat the water and slowly infiltrate it into the ground. This lot 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 rain garden.

**Parcel 2 (the lot with the existing house):** The existing house has downspouts that drain onto the ground. BES has noted that stormwater from the existing garage, which will be located 1.2 feet from the new property line, may cross the new property line. Based on the submitted site plan, the eave of the garage will be located at the proposed property line. This eave currently does not have a gutter. Prior to final plat approval, the applicant must retrofit the stormwater discharge from the north side of the existing garage so that it discharges meeting setback requirements per the SWMM. Modifications will be needed to redirect this and any other downspout that falls within the required setbacks. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks.

**33.654.110.B.1 Through streets and pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. The site is located along a north-south connection and is approximately 210 feet south of the nearest east-west connection to the north (SE Duke Street) and 500 feet north of the nearest connection to the south (SE Cooper Street).

The subject block, does not satisfy the above referenced spacing goals. Although the location of the subject site is located within its block to potentially improve connectivity in the area, there are a series of  $\leq 5,000$  sf sized lots on the east side of the subject block that preclude extending either a public street or a pedestrian connection – doing so would also require removing existing housing stock.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

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, SE 69<sup>th</sup> Avenue is improved with a 28-foot wide paved roadway with a curb on both sides within a 50-foot right of way. There are no planter strips or sidewalks. 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 sidewalk improvements must be made in order to meet City standards to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, PBOT notes that there appears to be 11 feet of right of way behind the existing curb. If this is the case no additional dedication will be necessary as there is adequate right of way for the required sidewalk improvements. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that sidewalk improvements are made.

**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:

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 2. 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 R2.5 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 several 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 17.6 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- Accessory Structures – Accessory structures are allowed within the side setback provided they meet the standards for detached accessory structures found in chapter 33.110. The provision in section 33.110.250.C.2.b.4 requires that detached accessory structures within the setback cannot have doors or windows that face the adjacent lot line. The existing accessory structure on Parcel 2 will be located 1.2 feet from the proposed property line and has a window facing proposed Parcel 1. In order to meet the development standards for setbacks in a single dwelling zone, prior to final plat approval, the applicant must modify the garage to remove the window facing the property line. The applicant must also modify the wall facing the proposed property line to be one-hour fire rated and modify the eaves so they are no more than 4 inches in length (See Exhibit E.7 for additional information).

The applicant must provide documentation prior to final plat approval that the required permits have received final inspection. 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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <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 11 –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 addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; 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 2 prior to final plat approval. Due to the loss of street tree planting space in the parking strip as a result of this land division, the applicant is also required to make a fee-in-lieu payment for the equivalent of 1.5 inches. These requirements are based on the standards of Title 11.
- The applicant must meet the requirements of the Life Safety section of the BDS for the existing garage to remain less than three (3) feet from the proposed property line. Specifically, the exterior wall that is adjacent to the property line is required to provide one-hour fire protection. Also, the eaves on the garage are closer than two (2) feet from the property line, and therefore cannot extend more than four (4) inches from the building. A building permit is required to complete this work. This requirement is based on Title 24, the Building Code.

## **CONCLUSIONS**

The applicant has proposed a two (2) parcel partition, 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: stormwater management, tree preservation, and development standards for existing structures.

With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2 parcel partition, that will result in two 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 review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

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

1. 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 Condition C.9 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Land Use Conditions 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 must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the frontage of Parcel 2, where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of the undeveloped lot may be constructed with development on each lot as per the City Engineer's discretion.

### Utilities

2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

### Existing Development

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning the cesspool on the site.
4. The applicant must obtain a finalized building permit for modifications to the existing garage that will remain on proposed Parcel 2 that demonstrate compliance with the standards listed below in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.4 of LU 16-209033.*
  - 33.110.250.C.2.b - Setbacks for Detached Accessory Structures--specifically, the permit must show removal of the garage window facing Parcel 1.

5. The applicant must obtain finalized approval of a building permit to meet the requirements of the BDS Life Safety section for the garage to remain on Parcel 2. Specifically, the wall that is located 1.2 feet from the proposed property line must be modified to be one-hour fire-rated and the eaves must be modified to no more than 4 inches.
6. The applicant must meet the requirements of BES for the stormwater systems on the existing garage to remain on Parcel 2. Specifically, gutters and downspouts must be installed on the north side of the garage that direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
7. The applicant must meet the requirements of Urban Forestry to plant 2 street tree(s) in the planter strip on SE 69<sup>th</sup> Avenue adjacent to Parcel 2. The applicant must contact Urban Forestry at 503-823-TREE (8733) prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.
8. The applicant must pay into the City Tree Preservation and Planting Fund the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

#### **Required Legal Documents**

9. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.3). Specifically, trees numbered 1 and 3 are required to be preserved. The trees are located on the south side of the existing away from the proposed development. The applicant's arborist indicates that, since the trees slated for preservation will be located well outside the area of construction impacts, no tree protection fencing is necessary for construction activities on Parcel 1. Should Parcel 2 redevelop in the future, the trees on that parcel would be subject to the tree protection requirements of Title 11.
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. At the time of development, the applicant must meet the requirements of the City Engineer for sidewalk improvements along the frontage of Parcel 1.

**Staff Planner: Jason P. McNeil**

**Decision rendered by:**  **on (November 22, 2016)**

By authority of the Director of the Bureau of Development Services

## **Decision mailed November 28, 2016**

**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 July 21, 2016, and was determined to be complete on September 28, 2016.

*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 July 21, 2016.

*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 did not waive or extend the 120-day review period.

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

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

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

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

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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

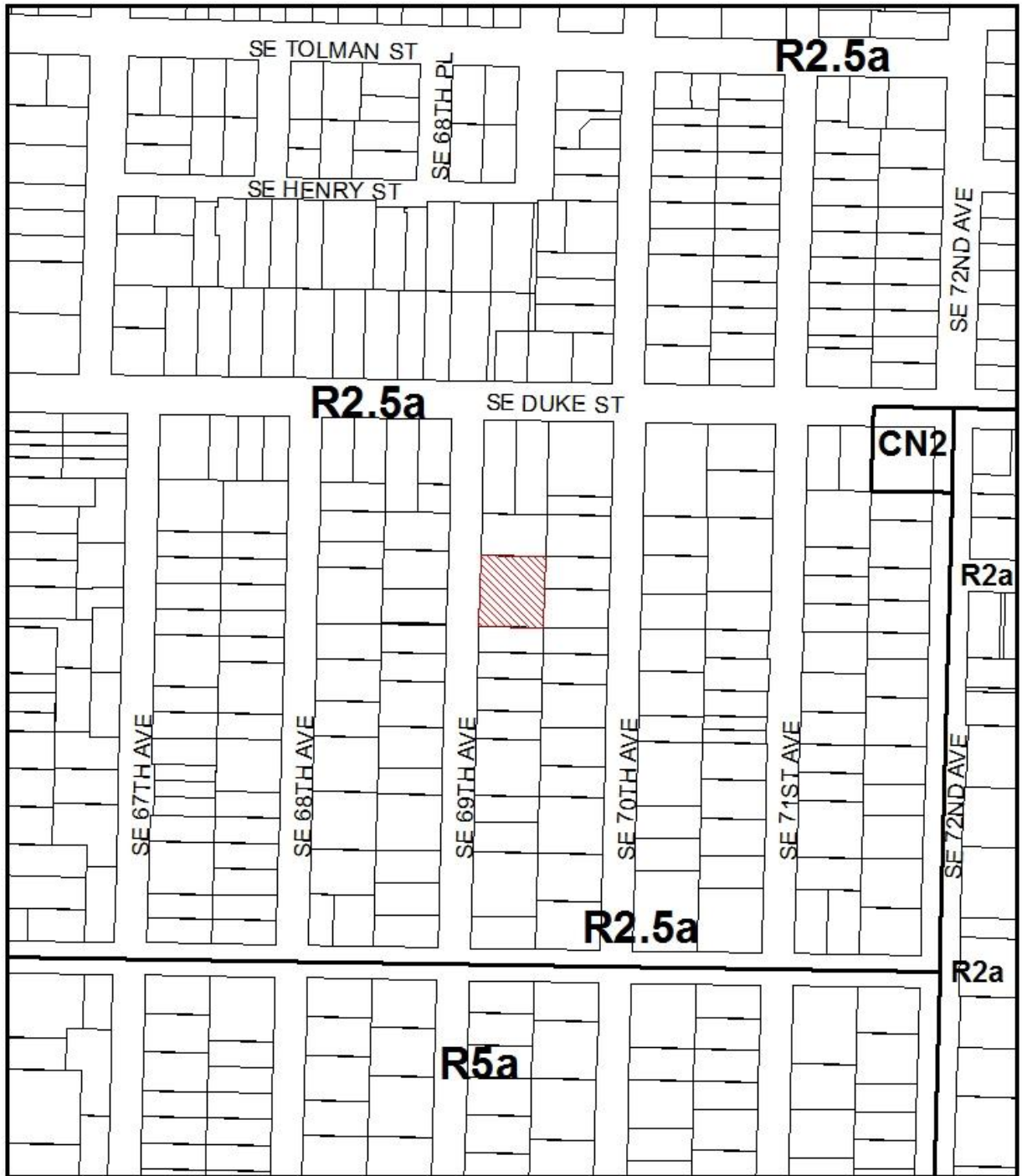
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

#### **EXHIBITS**


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. July 21, 2016 Narrative and plans
  - 2. September 28, 2016 Additional information
  - 3. Arborist's Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Plan (attached)
  - 2. 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. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence: None received
- G. Other:
  - 1. Original LUR Application
  - 2. Expedited Land Division Acknowledgement
  - 3. Incomplete Letter

**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).**



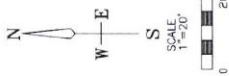
# ZONING

 Site

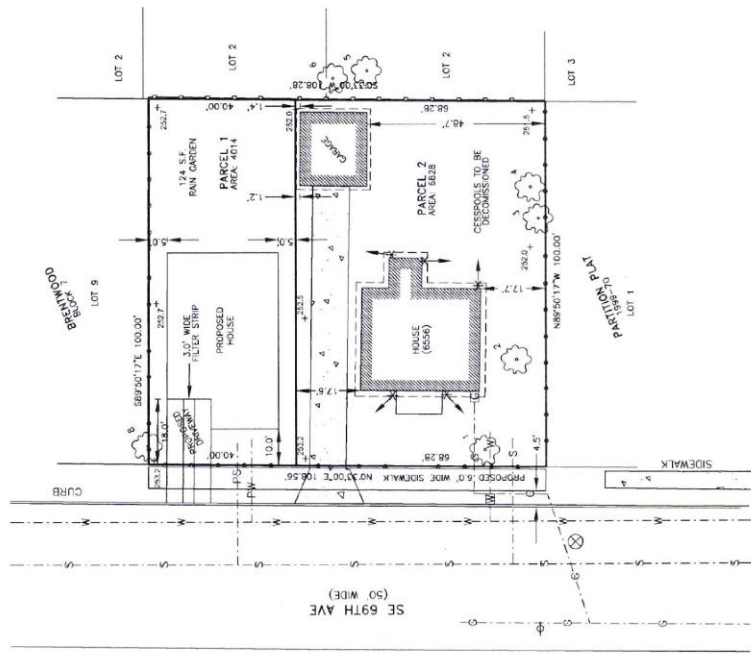
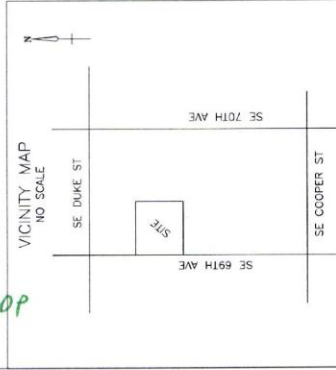


File No. LU 16-209033 LDP  
 1/4 Section 3737  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E20BA 7100  
 Exhibit B (Jul 25, 2016)

PROPOSED CONDITIONS



CASE NO. LU 111-209033 LOP  
 EXHIBIT C.1



- SYMBOLS**
- ⊕ = POWER POLE
  - ⊙ = GUY ANCHOR
  - ⊖ = WATER METER
  - ⊗ = GAS METER
  - ⊘ = ELECTRIC METER
  - ⊙ = WATER VALVE
  - ⊗ = GAS VALVE
  - ⊘ = MANHOLE
  - ⊙ = CLEAN OUT
  - ⊗ = CATCH BASIN
  - ⊘ = FIRE HYDRANT
  - ⊙ = DOWN SPOUTS
  - ⊗ = DRYWELL
  - ⊘ = "EPL" = LINE TO CONFIRM
  - = WATER LINE
  - = GAS LINE
  - = ELECTRIC LINE
  - = SAN SEWER
  - = PROPOSED WATER LINE
  - = PROPOSED SAN SEWER
  - ☼ = DECIDUOUS TREE
  - ☼ = CONIFER TREE

**REGISTERED PROFESSIONAL LAND SURVEYOR**

OREGON  
 JULY 28, 1990  
 JOE W. FERGUSON  
 JOE # 2445

RENEWAL DATE 12/31/17

NOTE: ELEVATION DATUM IS PER CITY OF PORTLAND BM# 2371  
 NOTE: FIRE HYDRANT IS 493' SOUTH OF SOUTHWEST CORNER  
 NOTE: TREE NUMBER PER TREE REPORT

	<p><b>SITE PLAN</b></p> <p>EAST 5' OF LOT 28 &amp; LOTS 23-25, BLOCK 8, 'STANFORD HEIGHTS', SECTION 14, T1S, R2E, S4M, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON</p>	<p>CLIENT: REDEVELOPMENT                  ION LAUFENBERG                  516 SE MORRISON ST. SUITE 700                  PORTLAND OR, 97214</p>	<p>DATE: SEPTEMBER 20, 2015</p> <p>JOB NO. 16-075                  DRAFTED 6.7.16</p>
		<p>REVISIONS</p> <p>REVISION</p> <p>REVISION</p>	<p>SHEET 1 OF 1</p>

**Ferguson Land Surveying, Inc.**  
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 www.FergusonLandSurveying.com