



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

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Date: June 15, 2017
To: Interested Person
From: Lois Jennings, 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 16-199907 LDP

GENERAL INFORMATION

**Applicant/
Owner's
Representative:** Chris Hagerman, PhD
The Bookin Group, LLC.
812 SW Washington St, Suite 600
Portland, OR 97205
503-241-2423 and Hagerman@bookingroup.com

Owner: Sean Connolly
703 NE Killingsworth Street
Portland, OR 97211-3858
503-349-2230 and seanconnolly3@comcast.net

Site Address: 703 NE KILLINGSWORTH ST

Legal Description: BLOCK 15 LOT 1 EXC PT IN ST S 3' OF LOT 2, CLOVERDALE EXTN & PLAT 2

Tax Account No.: R166401710
State ID No.: 1N1E14CC 19000
Quarter Section: 2431

Neighborhood: King, contact Andrew Neerman at andrew.neerman@kingneighborhood.org.

Business District: North-Northeast Business Assoc, contact at chair@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

Zoning: R1—Medium Density Multi-Family zone with

“a”-Alternative Design Density Overlay and a “h”-Aircraft Landing Overlay

Case Type: LDP- Land Division Partition

Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: The applicant is proposing a two (2) lot minor partition on the site for detached single family housing. Proposed Parcel 1 will retain the existing house and will be 2,508 s.f. in area. Parcel 2 will be 1,783 s.f. in area, for future development of a new single family residence. The existing detached garage will be removed from the site in order to create Parcel 2. The existing 19-inch Port Orford is dead and will be removed. Off-street parking is proposed for each house with access from NE Killingsworth Street.

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 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 5, 2016 and determined to be complete on January 3, 2017. The applicant and owner requested an extension of the 120-day review period.

FACTS

Site and Vicinity: The site is a corner lot which is relatively flat which contains the existing house and detached double car garage. Access to the existing detached garage is from a driveway off of NE Killingsworth Street. The site also consists of make shift metal covered accessory structure attached to the fence and shed on property.

The lot fronts on N.E. 7th Avenue and N.E. Killingsworth Street, which are improved with paved street and curbs and sidewalks. The surrounding properties are developed with one and two-story single dwelling residences. North the site is a one level apartment complex, while west (across the street) is vending carts. The property to the south of the site has a commercial business. Additional commercial business are developed along NE Martin Luther King Boulevard directly east of the site.

Areas west and directly south of the site are zoned CG (General Commercial), while the zoning north of the site is R2- Low density Multi-dwelling zoning.

Infrastructure:

- **Streets** –The site has approximately 42 feet of frontage on N.E. 7th Avenue and 100 feet of frontage along N.E. Killingsworth Street. There is one driveway entering the site that serves the existing house on the N.E. Killingsworth’s frontage. At this location, N.E. Killingsworth Street is classified as a District Collector Street for traffic, Major Transit

Priority street, Local Service street for bicycling, City Walkway and a Community Corridor per the City's Transportation System Plan (TSP). The TSP classifies N.E. 7th Avenue as a Local Service Street for all modes of transportation. Tri-Met provides transit service approximately 650 feet west of the site on N.E. Martin Luther King Boulevard via Bus #6 and over 1200 feet to the south on NE Alberta Street via Bus #72.

At this location N.E. Killingsworth Street is improved with a 36-ft. paved roadway and a 12-ft. sidewalk corridor within a 60-ft. wide public right-of-way. N.E. 7th Avenue is improved with a 30-ft paved roadway and a 10-ft. sidewalk corridor within a 50-ft. wide public right-of-way.

- **Water Service** – There is an existing 20-inch CI water main in N.E. Killingsworth Street and a 6-inch DI water main in N.E. 7th Avenue. The existing house is served by a metered domestic service from the main in N.E. Killingsworth Street.
- **Fire Hydrant Service**- The nearest hydrant to 703 NE Killingsworth Street is estimated to have a flow at 2,400 gpm with system residual pressure set to 20 psi.
- **Sanitary Service** - There is an existing 8-inch CSP public combination sewer line (BES job #0579) in N.E. Killingsworth Street and an 8-inch -combination sewer line in N.E. 7th Avenue that terminates north of the subject site.

According to 1924 City connection and as-built records, the existing house is connected to the sewer in NE Killingsworth through a lateral located approximately 84 feet from the manhole in NE 7th Avenue. Sanitary service requirement for the existing house is discussed later in this report under 33.652.

City records indicate that the sewer of 5512 NE 7th Avenue ties into the sewer serving 703 NE Killingsworth Street. Each lot is required to have an independent connection to public sewer therefore this is considered a nonconforming party sewer.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The applicant is proposing to manage stormwater onsite for both parcels and specifically via drywell for the future development on Parcel 2, which is discussed later in this report under 33.653.030.

Zoning: The R1 designation is one of the City's multi-dwelling zones which are intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The "a"-Alternative Design Density 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.

The "h"-Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. Because this site is located in a residential zone, it will be subject to the base zone height limits.

Land Use History: City records indicate there are land use reviews for this site.

- **PC 4108:** Approval of a zone change from A1 to C2

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 April 28, 2017. No written responses have been received from 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:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The 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	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site and site is outside of environmental zone.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.F - Alleys	No alleys are proposed or required
	33.654.120.G - Shared Courts	No shared courts are proposed or required
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.

	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing retain the existing house on Parcel 1 and allow for development of a single family house on Parcel 2.

Minimum density in the R1 zone is one unit per 1,450 square feet and the maximum density is one unit per 1000 square feet. In the R1 zone, if the site is less than 10,000 square feet in area, the minimum density is 1 unit per 2,000 square feet of site area. The total site area shown on the applicant's survey is 4,291 square feet. For a lot this size the minimum density is two (2) units and the maximum density is four (4) units.

Single-dwelling or duplex development is being proposed for the entire site; therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review. Therefore, the minimum density is 1 unit per 2,000 square feet.

The applicant's revised narrative (Exhibit A.7) states a single house is being proposed on Parcel 2 and the applicant has chosen to utilize an Alternative Development Option for Detached houses under Section 33.120.270.D for land divisions where lots are at least 25 feet wide. This will allow for the future house on Parcel 2 to have a side setback reduced to 3-feet on lot line internal to the land division site. Therefore, by utilizing this Alternative Development Option and even though Parcel 2 could be considered a duplex lot, the applicant is choosing to create a single family house lot by utilizing this provision of the code and therefore the maximum density on Parcel 2 is limited to one (1) unit.

Parcel 1 is currently developed with a single family house, which will be retained on the site. However, due to the proposed lot area if the existing house was removed it would have the potential to be redeveloped with a duplex in the future if all Title 33 development standards could be met.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid development on the site or further division of lots that would result in non-compliance with the overall density requirements of the site.

The minimum and maximum density for the lots within this land division is as follows:

Parcel	Minimum Density	Maximum Density
1	1 unit	2 units
2	1 unit	1 unit

The minimum density of two units is met for this land division proposal and with the assignment of maximum density for each of the proposed parcels; maximum density is not exceeded for this land division proposal.

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

R1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
**Detached Houses	none	25	none	25
Duplexes	none	none	none	10
Parcel 1 with existing house	2,508 s.f.	42 ft.	58.50 ft.	42.82 ft.
**Vacant Parcel 2	1,783 s.f.	41.50 ft.	42 ft.	41.50 ft.

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

The findings above show that the applicable density and lot dimension standards are met.

With the condition noted above, 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. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With this condition, the new 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 applicant submitted a written narrative addressing the transportation impact approval criterion (Exhibit A.13).

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

Based on the site plan submitted, the applicant proposes to divide one parcel into two parcels, thereby creating one additional parcel. The applicant proposes to retain one home and construct one new single-family detached dwelling. The proposed land division can support one additional dwelling. According to the ITE Trip Generation Manual, 9th Edition, one new single-family detached dwelling is expected to generate approximately ten trips per

day, including one additional trip during the morning peak hour and one additional trip during the evening peak hour. Based on that information, the proposed development will not significantly impact street capacity or level-of-service. The site plan shows that the existing 20-foot driveway will be replaced with two separate 9 foot wide driveways on N.E. Killingsworth Street, resulting in one additional driveway on N.E. Killingsworth Street. The proposed curbside vehicle access and loading area, as well as the driveway shown on the site plan, will be sufficient to accommodate vehicle access and loading for one additional dwelling. Existing sidewalks on N.E. Killingsworth Street and N.E. 7th Avenue include a 6-ft. wide sidewalk corridors that comply with current City standards and provide sufficient pedestrian access with a condition of building permit approval that the proposed driveways on NE Killingsworth Street are limited to no greater than 9 ft. in width as approved in the design exception (Exhibit A.14).

There are existing transit opportunities in the area, based on Google maps, a stop for bus line #6 is approximately 1,000-ft. from the proposed development and a stop for bus line #8 is approximately 2,200-ft from the proposed development, and bus line# 72 is approximately 3,200 ft. from the proposed development. The proposed development site is a location that provides sufficient availability of transit service and facilities. The proposed development will not negatively impact transit service or safety for any mode

The transportation system is capable of safely supporting the proposed development and existing uses in this area. To ensure the safety of pedestrian access along the existing NE Killingsworth sidewalk corridor and retain on-street parking adjacent to this site the driveways will be limited to 9-foot wide and separated by at least 20 feet. With this as condition of approval, the proposed partition will not have any effect on transit service or any other mode of modes, 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:

<p>33.651 Water Service standard – See Exhibit E.3 and E.4 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>The existing house is served by an existing metered service in N.E. Killingsworth Street and may continue to use the existing service. Future development on Parcel 2 may receive water service from the 20-inch water main in N.E. Killingsworth Street.</p> <p>Fire Bureau reviewed and verified that Fire Flow information provided (Exhibit A.10) from the nearest fire hydrant is adequate capacity and pressure to be able to serve the proposed development.</p> <p>The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>Service Availability: There is an existing 8-inch CSP public combination sewer in NE Killingsworth (BES job #0579) and a 8-inch combination sewer in NE 7th Ave that terminates north of the subject site. Private connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to a City sanitary or combined sewer. All discharge must be connected via a route of service approved by the BES Chief Engineer. Connection to public sewers must meet the standards of the City of Portland's Sewer and Drainage Facilities Design Manual.</p>

Existing Development on Parcel 1:

According to 1924 City connection and as-built records, the existing structure on proposed Parcel 1 is currently connected to the sewer in Killingsworth through a lateral located 84 feet from the manhole in NE 7th.

Nonconforming Sewer: The City of Portland considers the following configurations to be nonconforming sewers: private “partied” sewer laterals that are joined between two or more properties before connecting to a public sewer, private sewers that cross property lines with no recorded easement, and private sewers that extend beyond the property boundary into the public right-of-way. Based on City plumbing records, the subject property has a party sewer. New plumbing work on this site may trigger a requirement to bring the connections up to current standards. For additional information, the applicant should contact the [BES Nonconforming Sewer Program](mailto:Nonconforming@portlandoregon.gov) (Nonconforming@portlandoregon.gov or 503-823-7869).

City records indicate that the sewer of 5512 NE 7th ties into the sewer serving 703 NE Killingsworth. Each lot is required to have an independent connection to the public sewer therefore this is considered a nonconforming party sewer.

The follow is Bureau of Environmental Services (BES) review comments for the existing development:

- 1) BES has contacted the property owner (5512 NE 7th) to request that they disconnect from the shared sewer and reconnect to the combination sewer in NE 7th.
- 2) A sewer locate was performed by Inspectek West on 1/20/17 and location marks were painted on the site. The applicant has determined that the location marks are 9 feet east from the foundation of the structure.
- 3) BES’s 5/31/17 field location of the existing lateral based on the connection permit puts the lateral 10 feet from the foundation of the house and coincident with the proposed property line. **As a condition of final plat approval BES requires that the applicant confirm that the existing sewer is on Parcel 1. This can be done through additional location and survey work or by relocating the sewer line (with required permits finalized).** BES is available for further consultation.

Proposed Development on Parcel 2:

Parcel 2 will be served by a new connection to the sewer in Killingsworth. New laterals required to serve the project must be constructed to the public main at the developer’s expense during site development

With the recommended above listed conditions of approval, Bureau of Environmental Services finds the applicant’s proposal sanitary service acceptable for the purpose of reviewing the preliminary land division proposal against the sanitary sewer disposal approval criterion. The sanitary sewer service standards of 33.652 have been verified.

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

No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods

The applicant has proposed the following stormwater management methods:

Parcel 1 with the existing house manages on-site stormwater via downspouts to splashblocks on the ground which discharges within the yard.

Parcel 2-vacant lot for future development of a house will manage stormwater on-site with a drywell.

Bureau of Environmental Services has reviewed this proposal and provides the

following:

Onsite Stormwater Management: Stormwater runoff from this project must comply with all applicable standards of the SWMM and the SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's stormwater report from TCC and Associates (Exhibit A.11), that describes Simplified Approach infiltration test results of 1.8 inches per hour on this site.

Existing Development (Parcel 1): Stormwater currently discharges to the east and south through corrugated ADS pipe on the northeast and southeast corners of the existing house, respectively. Construction of a new driveway in the approximate location of the existing downspout extension will affect the infiltration area. Prior to final plat approval, the applicant must demonstrate that the stormwater management for existing development meets applicable SWMM requirements and will not be impacted by the proposed lot lines.

Proposed Development (Parcel 2): The applicant proposes to infiltrate runoff from Parcel 2 onsite via a drywell that can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM.

Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of BES. The applicant must modify the stormwater system for the existing house as necessary to comply with Stormwater Management Manual prior to final plat approval. Any required plumbing permits must have final inspection approval. With the recommended conditions of approval, BES finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the preliminary land division application against the approval criterion and standard.

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.

This is a corner lot that abuts a North-South street, NE 7th Avenue, and a East-West street, NE Killingsworth with the surrounding area being developed, therefore a connection is not necessary.

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

In reviewing this land division, Portland Bureau of Transportation (PBOT) 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.

The City's Transportation System Plan (TSP) classifies NE Killingsworth Street as a District Collector for traffic, Major Transit Priority Street, Local Service Street for bicycling, City Walkway and a Community Corridor (design mode). At this location, the TSP classifies NE 7th Avenue as a Local Service Street for all modes.

At this location, NE Killingsworth Street, is improved with a 36-ft. paved roadway and a 12-ft. sidewalk corridor, in a 60-ft. Right-of-Way (ROW). At this location, NE 7th Avenue, is improved with a 30-ft. paved roadway and a 10-ft. sidewalk corridor, in a 50-ft. ROW. (Note: The information in this document is derived from City of Portland GIS data, which may be in accurate. A survey will be necessary for accurate ROW.)

For a City Walkway in an R1 zone, such as NE Killingsworth, the Portland Pedestrian Design Guide recommends a 12-ft. sidewalk corridor consisting of a 0.5-ft. curb, 4-ft. furnishing zone, 6-ft. sidewalk, and 1.5-ft. frontage zone. For a Local Service Street in an R1 zone, such as NE 7th Avenue, an 11-ft. sidewalk corridor is recommended, to consist of a 0.5 ft. curb, 4-ft. furnishing zone, 6-ft. sidewalk, and 0.5 ft. frontage zone.

The existing improvements on NE Killingsworth Street and NE 7th Avenue do not comply with the current City standards. For NE Killingsworth Street, PBOT approved a Public Works Alternative (16-208693), removing the requirement for improvements and dedication on NE Killingsworth Street. On NE 7th Avenue, Temporary Administrative Rule 1.22 “Infill Development on Streets with an Existing Sidewalk Corridor” applies, so improvements and dedications are not required on NE Killingsworth Street or NE 7th Avenue.

Curb cuts and driveway construction must meet the requirements in Title 17. Title 17 driveway requirements will be enforced during the review of building permits. On March 23, 2017, the applicant applied for a Driveway Design Exception (DDE) to provide back-in egress onto NE Killingsworth Street, a District Collector. On April 12, 2017, PBOT approved the DDE #TR 17-142299 (Exhibit 14) as proposed by the applicant. As a condition of building permit approval, the applicant is required to close any curb cuts that do not provide access to a legal parking space. Additionally, as a condition of building permit approval, if less than 5-ft. of straight curb is proposed between the driveway and the existing driveway on the adjacent parcel (to the east –Parcel 2) the applicant is required to construct a driveway apron and wing to be shared with the adjacent driveway.

PBOT requests the removal of the street tree on NE Killingsworth, because it impedes sight lines to the pedestrian crossing sign (See further discussion below under Street Trees).

In this case PBOT has determined with the noted conditions above motor vehicles, bicycles and pedestrian travel will be able to meet City standards to ensure safe travel to and from the proposed development. With these requirements, the proposed additional units can be safely served by these existing streets without having any significant impact on the level of service provided. With the conditions of approval described above, this criterion is met.

33.654.120.H – Standards for Street Trees. Exhibit E.6

The City Forester reviews this land division proposal for its impact on existing street trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Trees Code.

Existing Right-of-Way Improvements:

There is approximately 100 feet of street frontage along NE Killingsworth Street and 42.82 feet of street frontage along NE 7th Avenue prior to the land division. The right-of-way is improved with pavement, curbs, planting strip and sidewalks. There are sidewalks and overhead power lines. There are existing street trees along both of these frontages. One deciduous tree less than six inches within the planting strip on NE Killingsworth street and one deciduous street tree within the planting strip along NE 7th Avenue. Each of these street trees is in good condition. No trees are proposed for removal.

As mentioned above PBOT, had concerns regarding the existing street tree on NE Killingsworth, because it was impeding sight lines to the pedestrian crossing sign and requested the tree to be removed. In response to this concern an Urban Forestry Inspector pruned the tree on June 9, 2017 to clear the sight line. The tree will not be approved for removal through this land division.

The applicant/owner of the property will need to document to PBOT with consultation of the Urban Forestry that tree does not impede sight line of the pedestrian crossing sign at this location at the time of final plat and in the future. A tree permit is required to remove or prune street trees.

Street Tree Planting (11.50.060.C):

The applicant provided a conceptual street tree planting plan, which shows the existing street trees being retained. One street tree must be planted or retained for each full increment of 25

linear feet (11.50.060.C.1). Street trees must be planted at a minimum of 1.5 caliper inches and be a species chosen from an approved street tree list.

Parcel 1 with the existing house will retain one street tree along its street frontage abutting NE 7th Avenue. Parcel 1 has approximately 58 feet of street frontage along NE Killingsworth Street, which requires two street trees. Currently the existing street tree will be retained and therefore one additional street tree is required to be planted within this street frontage. The planting of this additional street tree must occur prior to final plat approval.

A fee is required for loss of street tree planting locations. Each street tree requires 25 linear feet for planting. Prior to lot division there is room for four street trees to be planted along NE Killingsworth street frontage. After the proposed lot division there will be room for two street trees on Parcel 1 and one tree on Parcel 2. Therefore, a loss of potential location of one street tree. A fee is required for loss of any available planting spaces. A fee of \$450.00 (based on current fee schedule \$300 per inch x 1.5 inches x 1 lost tree spot) will be required for the elimination of one potential street tree planting locations as a result of this land division proposal. Payment (fee in lieu) to be made prior to final plat approval. (Note: The fee may change on July 1)

With a condition planting an additional tree within the Killingsworth Street frontage of Parcel 1 and making a payment for fee in lieu of planting for 1.5-inches for the loss of one street tree space, be made prior to final plat approval, 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:

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R1 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 (33.120.220)** – 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 a minimum of 5 feet and eaves may only project 20% into 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 survey showing the location of the existing building relative to the adjacent new lot lines.

- Accessory Structures (33.120.110 & 33.120.280) – In this zone, accessory structures are not allowed on a lot without a primary structure. The applicant has proposed to remove the existing detached garage and attached deck. A building permit is required to remove the existing detached garage. Therefore, in order for the proposed new lots to meet this standard, all accessory structure(s) on Parcel 2 must be removed prior to final plat. The applicant must provide documentation prior to final plat approval that the required demolition permits have received final inspection approval.

The supplemental existing conditions survey submitted does not reflect additional existing accessory structures (covered structure area created by metal cover over fence and shed) which are existing on the site which will straddle the new lot and even if altered will place the existing house on its future lot over building coverage. Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the accessory structures (shed and covered area created by using existing fences to support the roof) that straddles the line between proposed Parcel 1 and Parcel 2 must be removed prior to final plat. If the structure is more than 200 s.f. then demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary. If the structure is less than 200 square feet in size, a demolition permit is not required. The applicant must submit before and after photos to document removal of the structure.

- Required Off-Street Parking (33.266.120) – In this zone, one parking space per dwelling unit is required. A garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

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

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Oregon Structural and Oregon Residential Specialty Code
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access

Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 – Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- A separate building permit is required for the demolition of the garage and for the construction of the new single family house. These requirements are based on the Oregon Structural Specialty Code and Oregon Residential Specialty Code and Title 24 (Exhibit E.7).
- The applicant must meet the requirements of the Fire Bureau in regards fire apparatus access, including aerial access (See Exhibit E.4 for specifics). These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a two 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. All accessory structures (shed, fences, decks, covered structure, garage) which straddle the future lot line or located on Parcel 2 will be removed from the site. The existing house on Parcel 1 and future house on Parcel 2 will be required to have a required off-street parking space. Vehicle access to these off-street parking spaces will be from NE Killingsworth Street. Bureau of Environmental Services (BES) is requiring verification that the existing sanitary line for the house being retained will be completely within its new street frontage. The existing stormwater management system for the existing house will be modified to meet BES stormwater requirements. Urban Forestry is requiring an additional street tree to be planted along NE Killingsworth street frontage for Parcel 1 and payment in to tree fund for a loss of one street tree along NE Killingsworth frontage.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two lot partition, that will result in Parcel 2 being a detached single dwelling family lot and Parcel 1 can be either a duplex lot or detached single dwelling lot as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Survey Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, and Bureau of Environmental Services (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 actual surveyed location of the existing improvements and the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Dimensions of all existing improvements (building, eaves, stairs etc...) to the new proposed property line.
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The reduced side setbacks allowed under 33.120.270.D (for Parcel 2 only);

- Scalable supplemental site plan which depicts how stormwater management and sanitary services for the existing house on Parcel 1 are being met to BES requirements.
- Any other information specifically noted in the conditions listed below.

B. The following must occur prior to Final Plat approval:

Utilities

1. The applicant must demonstrate to the satisfaction of BES that the sewer lateral serving the existing structure is located within the Parcel 1 frontage, or cap the existing lateral and establish a new service connection from the existing structure to a public sewer. If modifications to the lateral are necessary, the applicant must obtain finalized plumbing permits for this work prior to final plat approval. A revised supplemental surveyed utility site plan must be provided to BES that reflects where the exact location of the sanitary service is located for the existing house on parcel 1.

Existing Development

2. The applicant must obtain a finalized demolition permit for removing the garage and attached deck on Parcel 2.

The following applies to the other existing accessory structures which straddle the lot line between Parcel 1 and Parcel 2:

- If the accessory structure(s) are more than 200 s.f. in area, then demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection.
 - If the other accessory structures on the site are less than 200 s.f. in area and a demolition permit is not required. The applicant must submit before and after photos to document removal of these other accessory structures.
3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
 4. A parking space shall be installed on Parcel 1 with the existing house in conformance with the applicable requirements of the Portland Zoning Code. The new parking space shall be limited to 9 ft. wide with access from NE Killingsworth Street per the PBOT approved Driveway Design Exception (TR 17-142299).

The applicant must obtain a finalized Zoning Permit for installation of the parking space. The permit plans must include the note: *This permit fulfills requirements of Condition B.4 of LU 16-199907 LDP.* The new parking space must also be shown on the supplemental survey plan after it has been completely installed.

5. The applicant must meet the requirements of BES for the stormwater systems for the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must 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.
6. The applicant must meet the requirements of Urban Forestry to plant one (1) street tree in the planter strip on NE Killingsworth Street adjacent to Parcel 1 with the existing house. 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.

Other requirements

- 7. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 inches of trees (a loss of one street tree). Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.
- 8. The applicant/owner will document to the satisfaction of PBOT that the existing deciduous tree on NE Killingsworth does not impede sight distance of the pedestrian sign at this location to the satisfaction of PBOT and Urban Forestry.

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

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

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

- 2. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat
- 3. At the time of development of Parcel 2 the driveway approach will be limited 9 feet wide. This new driveway must meet the Driveway Design Exception (TR 17-142299) approved by PBOT unless an alternative design is approved by PBOT to meet Title 17 requirements.

Staff Planner: Lois Jennings

Decision rendered by:  **on June 12, 2017**
By authority of the Director of the Bureau of Development Services

Decision mailed June 15, 2017

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 5, 2016, and was determined to be complete on January 3, 2017.

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 5, 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 requested that the 120-day review period be extended to the maximum allowance (Exhibit G.4). Unless further extended by the applicant, **the 120 days will expire on: January 3, 2018**

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.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

Recording 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 City Planning Director, 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.**

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

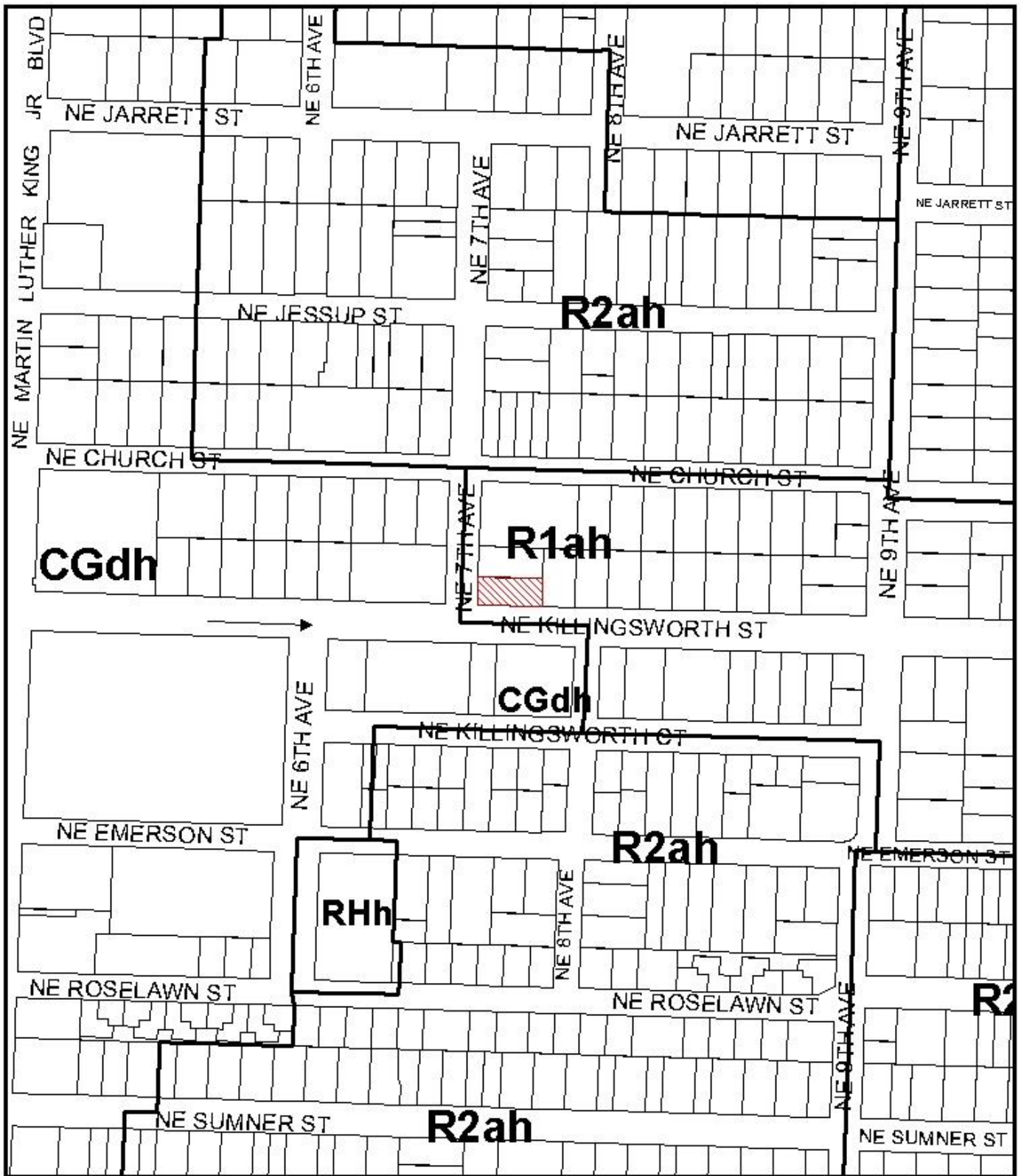
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
1. Original Narrative & Project Description submitted on July 5, 2016
 2. Original Arborist Report submitted on July 5, 2016
 3. Original Appendix B-E existing conditions and preliminary
 4. Revised Existing Conditions and Preliminary Plan submitted January 3, 2017
 5. Findings for Transportation Impacts criterion submitted by applicant on January 3, 2017
 6. Letter from applicant dated January 3, 2017 requesting not to send out notice until additional information is provided to complete application.
 7. Applicant's cover letter/narrative addressing incomplete items dated April 21, 2017
 8. Title Report which includes Deed History submitted on April 24, 2017
 9. Revised Existing Conditions & Preliminary Site Plan submitted April 24, 2017
 10. Fire Flow Information
 11. Stormwater Report
 12. Pictures of existing house
 13. Narrative addressing traffic impact criteria
 14. Drive Design Exception Decision Form TR 17-142299
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Site Plan (attached)
- 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
 - a. Revised Bureau of Parks Forestry Division dated June 9, 2017
 7. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
1. Original Land Use Application
 2. Incomplete Letter dated July 22, 2016 with service bureau comments
 3. Warning Letter regarding timeline to complete land use application
 4. Request for Extension of 120-Day Review Period
 5. E-mail Community with application from August 2016-June 2017
 6. LU History- PC 4108

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 16-199907 LDP
1/4 Section	2431
Scale	1 inch = 200 feet
State_Id	1N1E14CC 19000
Exhibit	B (Jul 08, 2016)

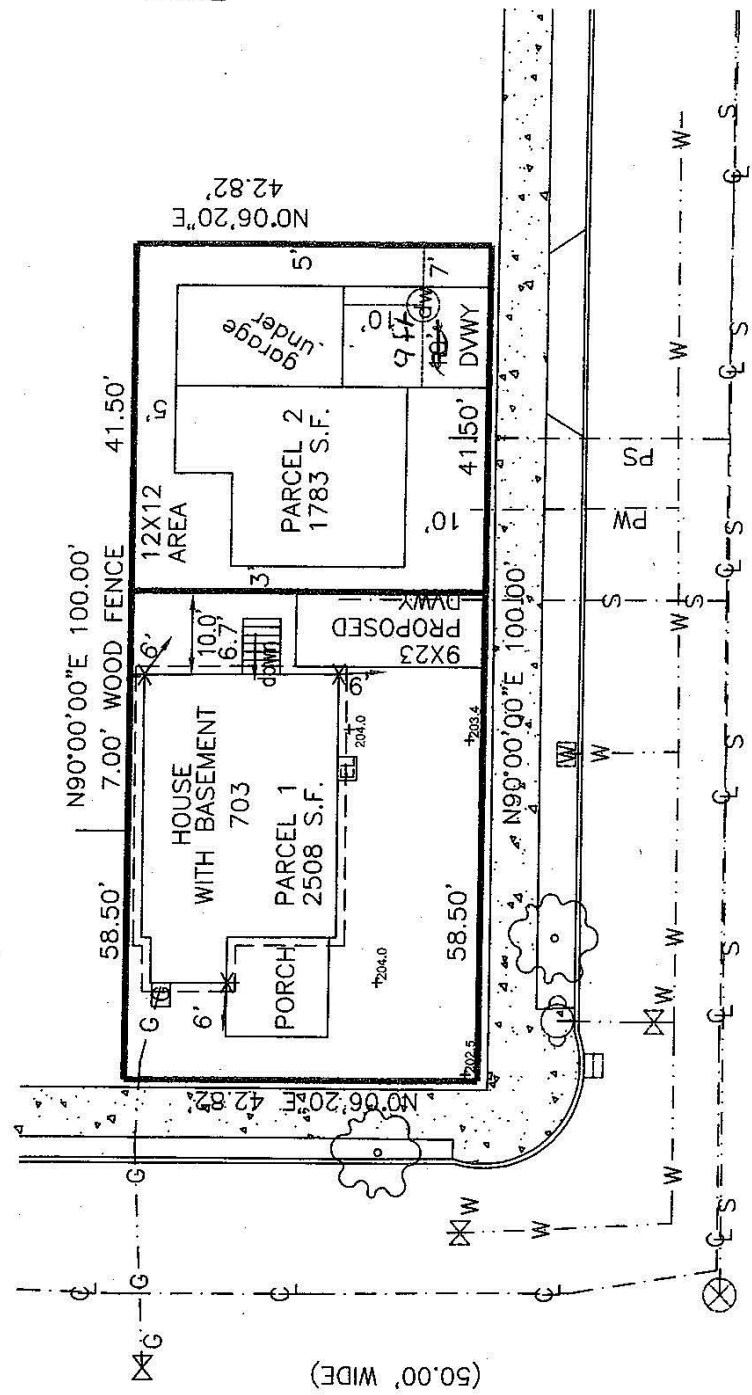
Preliminary Land Division Plan with Proposed Improvements & Utility Plan

- EXISTING CONDITION NOTES
1. DOWNSPOUTS TO BE MODIFIED TO BE 6' FROM THE HOUSE AND 5' AWAY FROM PROPERTY LINE.
 2. EXISTING SEWER LINE WAS FIELD LOCATED AND IS 1' WEST OF PROPOSED NEW PROPERTY LINE.

RECEIVED
 APR 24 2017
 By _____



SCALE
 1" = 20'



N.E. 7TH STREET (50.00' WIDE)

N.E. KILLINGSWORTH STREET (60.00' WIDE)

CASE NO. 16-199907
 EXHIBIT C.1