



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

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Date: November 22, 2017
To: Interested Person
From: Tabitha Boschetti, 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 17-219101 LDP

GENERAL INFORMATION

Applicant: Kevin Partain | Urban Visions Planning Services, Inc.
223 NE 56th Ave. | Portland, OR 97213
503-421-2967 | kevinp@gorge.net

Owner: Michael Mitchoff | Portland Houseworks, LLC
5105 SW 45th Ave. #201 | Portland, OR 97221

Site Address: 7023 SE SHERRETT ST
Legal Description: BLOCK 5 LOT 2, LUTHER PL
Tax Account No.: R516502610
State ID No.: 1S2E20CD 09400
Quarter Section: 3837
Neighborhood: Brentwood-Darlington, contact bdlanduse@gmail.com
Business District: Eighty-Second Ave of Roses Business Association, contact Nancy Chapin at nchapin@tsgpdx.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010
Zoning: Residential 5,000 (R5) with Alternative Design Density (a) overlay
Case Type: Land Division Partition (LDP)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant proposes a Land Division Partition to divide a 14,250 square-foot lot into two parcels, each 7,125 square feet in area, and measuring 50 feet wide. Each parcel would be intended for development with a detached single-dwelling home and a separate accessory dwelling unit (ADU). Water and sanitary sewer will be provided by existing utilities located in SE Sherrett Street. A single driveway is proposed with a shared access easement over a center driveway crossing both parcels. The applicant proposes on-site drywells to manage stormwater disposal.

The applicant has previously demolished all structures on the site. At the time of this application, one Big-leaf maple (26" dbh) remains on site, which is proposed for preservation.

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 2 units of land. 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:

- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

ANALYSIS

Site and Vicinity: This site is a 14,250 square-foot rectangular lot on the north side of SE Sherrett Street. The site is mostly flat, and all previous structures have been demolished. A single 26” dbh Big-leaf maple stands near the center rear of the site, but is the only notable vegetation remaining.

The immediate area primarily consists of single-dwelling homes, with most lots ranging in size from about 5,000 to 8,000 square feet, with some smaller lots north of SE Harney Street and east of 72nd. Harney City Park and a little league field are also features of the immediate neighborhood.

Infrastructure:

- **Streets** –The site has approximately 100 feet of frontage on SE Sherrett Street. There is an existing curbcut from a driveway that served the previous house, and a temporary construction access ramp. At this location, SE Sherrett Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 500 feet from the site at SE 72nd Avenue via Bus 71.

SE Sherrett Street has a 50-foot right-of-way with parking on both sides. Along the 100-foot wide site frontage the pedestrian corridor includes a 5-ft curb-tight sidewalk with 11.5 feet of ROW behind the sidewalk.

- **Water Service** – There is an existing 6-inch CI water main in SE Sherrett Street. The recently demolished house was served by a 5/8-inch domestic service line which can be used to serve Parcel 1.
- **Sanitary Service** - There is an existing 8-inch PVC sanitary sewer in SE Sherrett Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R5 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 fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division is not using any 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 5, 2017**. One written response has been received, which raised a range of concerns including allowed residential density, driveway design, parking, impervious surface area,

and tree preservation. As part of the overall staff response to these concerns, it should be noted that the land division review does not approve specific development on the site, but a conceptual site plan is used to evaluate the feasibility of tree preservation, utility service, and other needs.

At the time of notice, the applicant had presented a conceptual site plan that would include three driveways. The letter-writers objected to having three curb-cuts, as did PBOT. The applicant revised their proposal to include just one shared driveway during the review process. This reduces the overall hardscape area and the impact on the pedestrian experience.

The letter-writers also objected to the proposal including two primary dwellings and two accessory dwelling units on the site. In the single-dwelling zones, ADUs are not counted toward minimum or maximum density, and the lot criteria are further discussed under approval criteria A, "Lots." The applicant will need to show they meet any parking requirements at the time of development, but the conceptual plan provided includes non-required parking areas for the ADUs as well as an attached garage for each primary dwelling.

Tree preservation (33.630) and Clearing, Grading, and Land Suitability (33.635) standards and criteria mentioned in the letter are addressed in the following section below.

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.
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 add if site has e-zoning outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.

	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 14,250 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet.

The site has a maximum density of 2 units. The minimum required density would calculate to 2 units, however, if the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to 1. The applicant is proposing 2 single dwelling parcels and 2 additional accessory dwelling units (ADUs), which are not considered in the calculation of maximum density (33.205.050). 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)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	7,125	7,125	50	142.5	50
Parcel 2	7,125	7,125	50	142.5	50

* 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.

As shown in the table above, the required lot dimension requirements are met, so the property may be divided to create Parcels 1 and 2 as proposed.

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, that 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 as part of an existing conditions plan (Exhibit C.2) that shows the location of trees on and adjacent to the site. The size and condition of these trees is documented in the earliest arborist report (Exhibit A.9). The applicant provided an arborist report describing the condition and suitability for preservation for trees on site from before the demolition on site (Exhibit A.9), and an updated arborist report and further addendum (Exhibits A.10 and A.11) confirming that the one remaining tree is still able to be preserved with a specified root protection zone and tree protection measures.

Additional observation from City of Portland Urban Forestry (Exhibit E.6) staff indicated that the Big-leaf maple (#15) measured 26" dbh, not the 30" dbh noted in the applicant's arborist report. Therefore, the 26" dbh measurement will be considered in this review.

Both the project arborist and the City Urban Forestry staff found that the tree proposed for preservation (26-inch Big-leaf maple, Tree #15) is in good condition, and is a native species measuring 20 or more inches in diameter. The applicant proposes a variable root-protection-zone (RPZ) that has been affirmed by City of Portland Urban Forestry. The proposed root protection zone for the tree will allow for the type of development anticipated in the R5 zone, and will not conflict with any existing utility easements, proposed services, or site grading.

Since the applicant proposes to retain the only tree on site, and it is 20 or more inches, representing 26 inches of total tree diameter, the proposal complies with:

Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.

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 as shown on the Preliminary Plan (Exhibit C.1) and the most recent Arborist Report (Exhibit A.11).

In addition, the applicant's arborist report has also identified 10 trees on adjacent sites that are within 15 feet of potential disturbance area on the proposed lots. Of these trees, most would experience limited impact considering existing setback requirements. The existing fencing around the perimeter of the site also affords protection for the offsite trees.

One tree however, a 20" dbh Big-leaf maple (Tree #19) located approximately 3 feet west of the site, is well within the potential disturbance area. The arborist found that limiting permanent disturbance to at least 12 additional feet away from the existing fence and property line would be adequate for tree protection. With a condition preventing disturbance within 15 feet of tree #19, this tree can be protected. Alternatively, the applicant may furnish a supplemental report from a certified arborist addressing how the offsite tree will be protected during construction on Parcel 1 to the satisfaction of BDS-Land Use.

Based on these factors, no additional mitigation is warranted, and with the implementation of the noted conditions, the approval criteria will be met.

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 tree 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, as discussed above, tree protection will be required and should not conflict with future development on the site.

Land Suitability

The site has most recently been in residential use, and there is no record of any other use in the past. The applicant has already removed the previously existing house and garage to redevelop the site. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues, and the new lots can be considered suitable for new development.

Based on these factors, this criterion is met.

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

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easement is proposed and will be required for this land division:

- A Reciprocal Access Easement to allow shared use of a driveway that will straddle the proposed lot line between Parcels 1 and 2;

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for the agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions discussed above, this criterion will be 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.

To address the approval criteria, the applicant submitted a narrative. 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 applicant is proposing a 2-parcel land division to develop the site with two new single-family detached homes. The site was previously developed with one single-family home that was demolished in May 2017. Accordingly, the proposed project will result in a net increase of one new single-family home. Based upon trip generation estimates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th Edition, the project is estimated to generate one additional trip during both the morning and evening peak hours (10 additional trips in total each day). The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.

Vehicle access to the site is proposed via a 14-ft wide shared driveway with a reciprocal easement that will provide access to on-site parking behind the homes. This driveway

configuration preserves on-street parking in front of the lots. The surrounding area has an established residential development pattern that includes single-family homes on lots that accommodate one, and in some cases, multiple on-site parking spaces thereby reducing the demand for on-street parking in this area. Given the on-site parking opportunities that will be provided with the new development, on-street parking in the area will not be adversely impacted by the proposed new dwelling units. The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

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

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The criteria and standards are met as shown in the following table:

33.651 Water Service standard – See Exhibit E.3
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
The Bureau of Environmental Services has indicated that service is available to the site, as noted on pages 2-3 of this report. The sanitary sewer service standards of 33.652 have been verified.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. <ul style="list-style-type: none"> • Parcels 1 & 2: The applicant has proposed that stormwater will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Their stormwater information has not, however, been updated since the ADUs were added to the proposal. <p>BES has determined that each of these lots generally has sufficient area for stormwater facilities that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home, and very likely an ADU as well. However, BES has indicated that the applicant must provide more information to demonstrate this.</p> <p>With a condition that the applicant provide a new Simplified Approach Form, and supplemental site plan showing the utility plan and stormwater management system to the satisfaction of BES, prior to Final Plat approval, these criteria will be met.</p>
33.654.110.B.1 Through streets and pedestrian connections
The City's spacing goals for public through streets/pedestrian connections is a maximum of 530-ft and 330-ft respectively. The site is located within an area that generally meets the City's spacing goals. Given the surrounding development pattern, PBOT identified no additional opportunities to improve connectivity in relation to the proposed partition. As such, this criterion is met.
33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2
This section requires approval by PBOT for the elements within the right-of-way. Frontage improvements will not be required in relation to the proposed development. Given that this lot represents one of the last remaining lots to be further developed on the block and the sidewalk configuration is consistent for the entire blocks length, the existing sidewalk will be permitted to remain and the applicant will not be required to reconstruct the sidewalk in relation to the development of two new single-family homes (Internal Public Works Alternative 17-268709-PW). Accordingly, this criterion is met.
33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)
Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time, no specific utility

easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

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

Existing development that will remain after the land division. The site is currently vacant, so the division of the property will not cause any structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 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.

- The applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow from the nearest fire hydrant; addressing; and fire apparatus access (fire apparatus road access within 150 feet of all exterior walls and aerial access). If an appeal is approved, or an exception granted for the any of these standards, an Acknowledgement of Special Land Use Conditions may be required to be recorded with the plat to identify the associated requirements. The requirements listed here are based on the technical standards of Title 31 and Fire Bureau Policy B-1, and the 2016 Portland Fire Code.

CONCLUSIONS

The applicant has proposed a 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 included driveway configuration, tree preservation, and stormwater management. The applicant revised the original driveway design proposal to limit the number of curb cuts as discussed in the Analysis, and conditions have been added to ensure tree preservation and protection. Additional stormwater documentation will be required before Final Plat approval. Other neighborhood concerns regarding allowed density have been discussed in the Analysis

section and under “A, Lots.” The remaining concerns specific to review criteria have been addressed under their respective sections under “Zoning Code Approval Criteria.”

With conditions 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 standard lots, as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for BES and Fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. The supplemental plan must use the Final Plat as a base map and show:

- The proposed general location of all future building footprints and stormwater facilities for each of the parcels.
- The tree protection buffer for Tree #19 as described in Condition C.3 below.
- Fire access to ADUs on Parcels 1 and 2.

B. The final plat must show the following:

1. A 14-foot wide Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Parcel 1 and Parcel 2, as shown on Exhibit C.1. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.3, C.4, and C.6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for Reciprocal Access Easement has been recorded as document no. _____, Multnomah County Deed Records.”

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

1. The Supplemental Plan must show a 15-foot root protection zone around Tree #19 (12 feet from the existing fence on the property line) which contains no proposed disturbance in accordance with the recommendation from the applicant’s arborist (Exhibit A.11). Alternatively, the applicant may furnish a supplemental report from a certified arborist addressing how the offsite tree will be protected during construction on Parcel 1 to the satisfaction of BDS-Land Use.
2. The applicant must submit a revised storm report corresponding to the supplemental plan listed in Condition A, that is complete and depicts how the stormwater management requirements can be met for all proposed development on site, to the satisfaction of BES.
3. A Maintenance Agreement shall be executed for the Reciprocal Access Easement described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 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.
5. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior to Final Plat approval.

6. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for proposed rear ADUs on Parcels 1 and 2, as required in Chapter 5 of the Oregon Fire Code. The fire apparatus access road shall extend to within 150 feet of all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building. Where a building is protected with an approved fire sprinkler system, an exception to the maximum distance is increased to 250 feet.
7. If an appeal is granted, or an exception is used, to meet the Fire Bureau's requirements, then the applicant must provide an Acknowledgement of Special Land Use Conditions form to be recorded and noted on the plat. Such Acknowledgement shall be recorded with Multnomah County, and referenced on the Final Plat. A notarized copy of the Acknowledgement must be provided prior to approval of the plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with Tree Preservation Plan as included in the Preliminary Plan (Exhibit C.1), and arborist report (Exhibit A.11), and a 15-foot root-protection-zone around Tree #19 (12 feet from the fence and west property line) without disturbance must be observed. Specifically, the onsite tree numbered #15 is required to be preserved, and the offsite tree numbered #19 must be protected per the plan required in Condition C.1. Tree protection fencing is required along the root protection zones described above. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground.

Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. In the event that the property owner wishes to build a fence encroaching into the root protection zone, a certified arborist must check the location of the fence posts and, and postholes shall be dug by hand. The proposed root protection zone already extends beyond the Prescriptive Path allowances of 11.60.030. Planning and Zoning approval of development in the root protection zones beyond the specified root protection zone illustrated in Exhibit C.1 is subject to receipt of a report from an arborist, explaining that the arborist has approved the specified methods of construction, and that the activities will be performed under their supervision.

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. The applicant will be required to meet any requirements identified through a Fire Code Appeal or as recorded in the Acknowledgement of Special Land Use Conditions, pending the outcome of Conditions C.6 and C.7. Please refer to the Final Plat status report for details on this requirement.

Staff Planner: Tabitha Boschetti

Decision rendered by:  **on November 20, 2017**

By authority of the Director of the Bureau of Development Services

Decision mailed November 22, 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 August 9, 2017, and was determined to be complete on October 2, 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 August 9, 2017.

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. Unless further extended by the applicant, **the 120 days will expire on: January 30, 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.

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.**

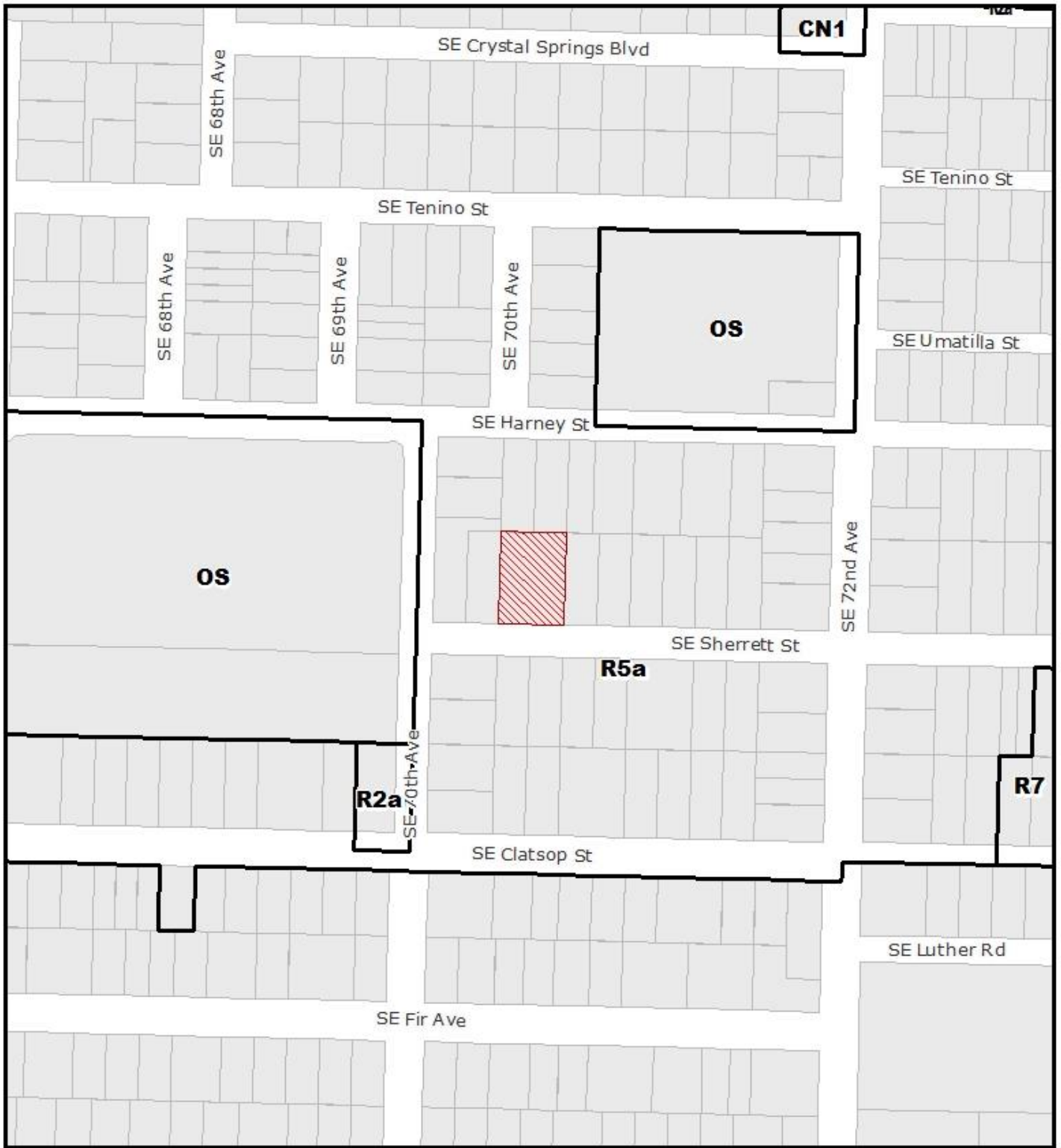
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
 - 1. August 9, 2017 Applicant’s Narrative and Site Plans
 - 2. July 27, 2017 Stormwater Report and Simplified Approach Form
 - 3. September 7, 2017 Additional Information and Site Plans
 - 4. September 7, 2017 Revised/Complete Simplified Approach Form
 - 5. September 7, 2017 Revised Site Plans
 - 6. September 20, 2017 Revised Site Plan
 - 7. October 2, 2017 Additional Information and Site Plans

8. October 13, 2017 Revised Site Plan
 9. September 7, 2017 Arborist Report (dated June 7, 2017)
 10. September 28, 2017 Arborist Report
 11. November 7, 2017 Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Preliminary 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 (regarding tree #15)
 7. Bureau of Parks, Forestry Division (regarding street trees)
 8. Life Safety
- F. Correspondence:
1. Willis, Karen and Kayla; 11/3/17, re: density, parking, and other criteria
- G. Other:
1. Original LU Application
 2. Incomplete Letter
 3. Expedited Land Division Acknowledgement

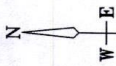
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



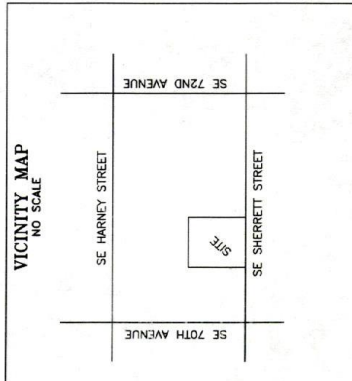
ZONING 
NORTH

 Site

File No.	LU 17-219101 LDP
1/4 Section	3837
Scale	1 inch = 200 feet
State ID	1S2E20CD 9400
Exhibit	B Aug 09, 2017

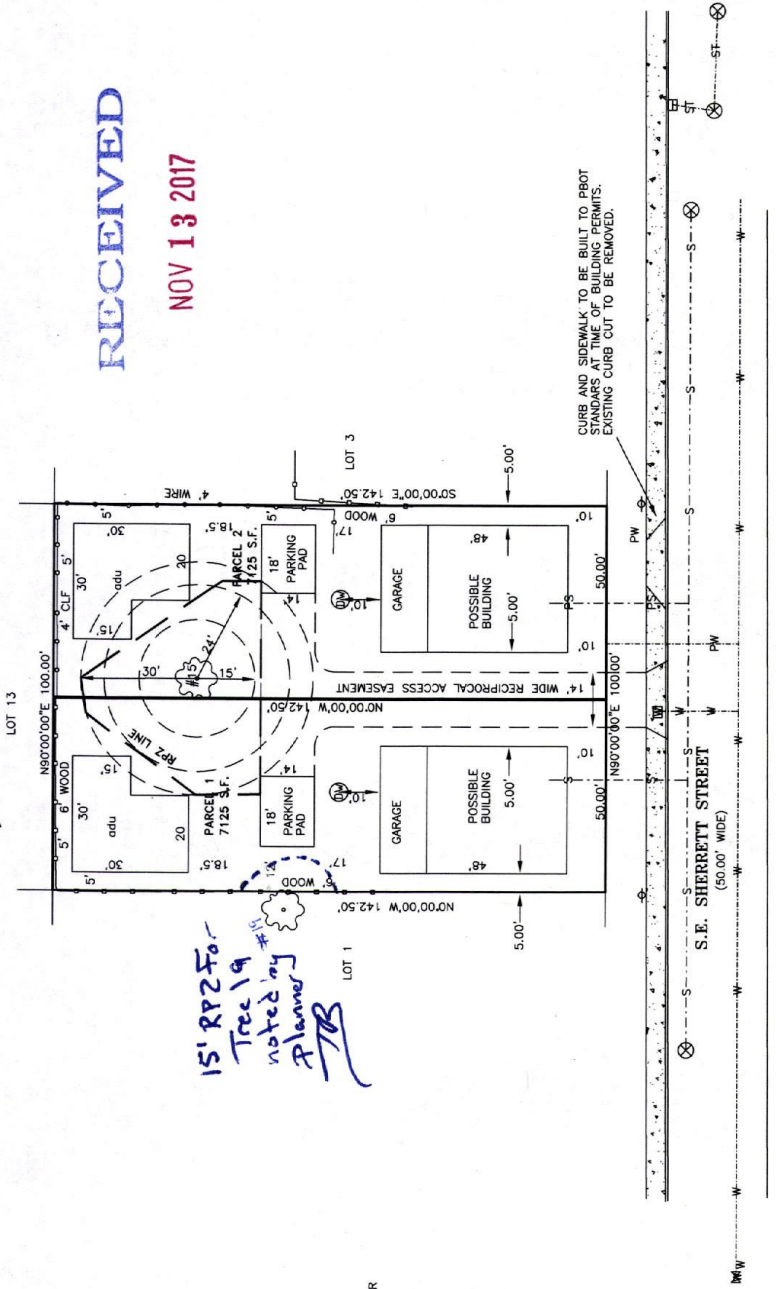


- SYMBOLS**
- ⊕ = POWER POLE
 - ⊙ = GUY ANCHOR
 - ⊞ = WATER METER
 - ⊞ = GAS METER
 - ⊞ = ELECTRIC METER
 - ⊞ = WATER VALVE
 - ⊞ = GAS VALVE
 - ⊞ = MANHOLE
 - ⊞ = DRYWELL
 - ⊞ = CATCH BASIN
 - ⊞ = FIRE HYDRANT
 - ⊞ = DOWN SPOUTS
 - * = "EPL" = LINE TO CONFIRM
 - = WATER LINE
 - = PROPOSED WATER
 - = GAS LINE
 - = ELECTRIC LINE
 - = SAN. SEWER
 - = PROPOSED SEWER
 - = SAN. STORM
 - ⊞ = DECIDUOUS TREE
 - ⊞ = CONIFER TREE
 - ⊞ = NEW LARGE TREE



RECEIVED
NOV 13 2017

LUTHER PLACE
 BLOCK 5



15' RP2 For
 Tree 19
 noted by
 Planner
 JB

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
 JOE H. FERGUSON
 JULY 25, 1990
 OREGON
 RENEWAL DATE 12/31/17

NOTE: ELEVATION DATUM IS PER CITY OF PORTLAND BENCHMARK NO. 3473

Ferguson Land Surveying, Inc. 646 SE 106TH AVE., PORTLAND, OR 97216 Phone (503) 408-0601 Fax (503) 408-0802 www.FergusonLandSurveying.com	PROPOSED CONDITONS MAP LOT 2, BLOCK 5, "LUTHER PLACE" SITUATED IN THE SW 1/4 OF SECTION 20, T.15., R.2E., W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON	CLIENT: PORTLAND HOUSE WORKS LLC MIKE MITCHELL 5105 SW 45TH AVENUE SUITE 101 PORTLAND, OR 97221	DATE: JULY 26, 2017 DRAFTED 05.30.17 REVISED 8.24.2017 REVISED: 11.2.17 REVISED: 11.9.17	JOB NO. 17-084 SHEET 1 OF 1
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L17-219101
EXHIBIT C.1