



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

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**Date:** January 29, 2018  
**To:** Interested Person  
**From:** Brandon Rogers, 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 17-164072 LDP**

**GENERAL INFORMATION**

**Applicants:** Tynisha & Mike Safstrom | M & T Development LLC  
6729 Childs Rd | Lake Oswego, OR 97035  
[mandtdevelopmentllc@icloud.com](mailto:mandtdevelopmentllc@icloud.com)

**Owner:** Vantage Homes LLC  
1761 3<sup>rd</sup> St #108 | Norco, CA 92860

**Owner's Representative:** Sean Robbins | Vantage Homes LLC  
3416 Via Oporto #301 | Newport Beach, Ca 92663  
[sean@vantagehomesllc.com](mailto:sean@vantagehomesllc.com)

**Site Address:** 7101 NE PRESCOTT ST  
**Legal Description:** BLOCK 5, LOT 9, PADDOCK AC  
**Tax Account No.:** R637202110  
**State ID No.:** 1N2E20BD 05200  
**Quarter Section:** 2537  
**Neighborhood:** Cully, contact David Sweet at 503-493-9434.  
**Business District:** None  
**District Coalition:** Central Northeast Neighbors, contact Sandra Le Francois at 503- 823-2780.

**Zoning:** Residential 7,000 (R7) with the "h" Aircraft Landing Zone overlay zone.  
**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 two-parcel partition of a 17,226 square-foot site, creating an 8,727 square-foot parcel for the existing house and a 6,778 square-foot flag lot (flag portion only) for development of a single-family dwelling. Water and sanitary sewer services are proposed to be provided by public mains located in NE Prescott Street. Access is proposed from NE Prescott Street. Stormwater is proposed to be managed by on-site

drywells. The site contains trees subject to the tree preservation standards of Portland Zoning Code chapter 33.630.

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 criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

## FACTS

**Site and Vicinity:** The site is developed with a single-family residence, which is proposed to remain at the site. The topography of the site is generally level, with an average slope of 4 percent, sloping down to the north. The surrounding neighborhood is characterized by primarily single dwelling development, with 5,000 square-foot lot sizes and 200-foot by 500-foot block sizes typical on the South side of NE Prescott Street and larger lot sizes and 500-foot by 435-foot block sizes typical on the north side of NE Prescott Street. The lot size and block patterns are split by NE Prescott Street, reflecting early and late annexations to the City of Portland, with the later (1985) annexation area north of NE Prescott reflecting the larger lot and block sizes and the early (1907, 1908) annexation area south of NE Prescott reflecting the smaller lot and block sizes. The surrounding topography is generally level within the vicinity of the site.

### Infrastructure:

- **Streets:** The site has approximately 79 feet of frontage on NE Prescott Avenue. There are two driveways entering the site serving the existing house. The site is located approximately 200 feet from a stop for bus #71 on NE Prescott Street and approximately 3,168 feet from a stop for bus #12 on NE Sandy Blvd. At this location, the City’s Transportation System Plan (TSP) classifies NE Prescott Street as a Neighborhood Collector, City Walkway, City Bikeway, Major Emergency Response Street, and a Local Service Streets for all other modes (design and freight). NE Prescott is improved with a 40-ft paved roadway and 10-ft sidewalk corridor (3.5-5-1.5 configuration) within a right of way of 60-ft.
- **Water Service:** There is an existing 6-inch water main located within NE Prescott Street. The existing house is served by a metered service from this main.
- **Sanitary Service:** There is an existing 8-inch public sanitary sewer line located within NE Prescott Street.
- **Stormwater Disposal:** There is no public storm-only sewer currently available to this property.

**Zoning:** Residential 7,000 (**R7**) with the “h” Aircraft Landing overlay zones. **The R7 zone** 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 **Aircraft Landing (“h”) overlay zone** provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation.

**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 20, 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:
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.
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 17,226 square feet in area. The maximum density in the R7 zone is calculated at one unit per 7,000 square feet. Minimum density is calculated at one unit per 7,000 square feet based on 80 percent of the site area. Based upon this information, the maximum and a minimum density of the site calculates to be two units. However, because the minimum required density is equal to the maximum allowed density, the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to one unit (33.610.100.E.1). The applicant is proposing two single dwelling parcels. The density standards are therefore met. The required and proposed lot dimensions are shown in the following table:

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>	<b>Min. Flag Lot Width (feet) <sup>**</sup>(1)</b>	<b>Min. Flag Lot Depth (feet)</b>
<b>R7 Zone</b>	4,200	12,000	40	55	30	40	40
Parcel 1 (Standard Lot)	8,727		67	130.26	67	N/A for standard lots	N/A for standard lots
Parcel 2 (Flag Lot)	6,778 <sup>**</sup> (2)		N/A for flag lots	N/A for flag lots	Exempt 33.610.400.E.1	79	85.80

\* 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.

\*\* For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

**Flag Lot Standards:**

**When allowed:** In this case the applicant is proposing two parcels, one of which is a flag lot. The existing dwelling unit has been located on the property for at least 5-years and is positioned on proposed Parcel 1 so that a land division that creates a standard sized lot that meets minimum lot width standards is not possible. The minimum density standards are met. Therefore the thresholds for when a flag lot is allowed to be created have been met.

**Dimensions:** The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area (flag portion only), width and depth standards.

**Vehicle Access:** Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, the pole portion of Parcel 2 will provide off street parking access for both of the parcels. Each parcel has adequate space to accommodate off street parking. The shared vehicle access minimizes the need for additional curb-cuts along the street and the reduces the impervious area resulting from paved surfaces for vehicle access. An access easement is required to be placed over the entirety of the pole to allow shared access. A private access easement and maintenance agreement will be required at the time of final plat. The existing driveway located at the west portion of the property is required to be closed. Parcel 2 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 2 is allowed. The findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met.

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

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

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

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter in size and trees located within tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, trees buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites. Trees that are exempt from the requirements of this chapter include dead, dangerous and dying trees, nuisance species trees, trees located within 10 feet of a building to remain on the site, trees within an existing right-of-way, or within an environmental zone.

To identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.3) showing the location and size of trees on the site. The applicant also provided an arborist report (Exhibit A.3) that identifies each tree, evaluates its condition and suitability for preservation (or its exempt status), and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 8 trees: (Trees #1 (24-inch Blue Atlas Cedar), #2 (10-inch Douglas fir), #4 (14-inch Norway Spruce), #5 (31-inch Deodar Cedar), #8 (17-inch Western Red Cedar), #10 (16-inch Douglas fir), #12 (19-inch Scouler's Willow), #13 (8-inch plum), which provide a total of 139 inches of tree diameter, are subject to the preservation requirements of this chapter. Specifically, the applicant proposes to retain one of the two trees (50%) that are 20 or more inches in diameter (Tree #1, 24-inch DBH Blue Atlas Cedar) and 78 inches (56%) of the total tree diameter (Trees #1, #2, #8, #12, #13), so the proposal complies with Option 3 of the tree preservation standards, which requires preservation of at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.

The trees proposed for preservation are in good condition, include native and non-nuisance species, and two of the trees measure 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R7 zone and will not conflict with any existing utility easements, proposed services or site grading.

The arborist proposes to use the Performance Path for tree protection for Trees #1 and #2. The Performance Path tree protection methods of 11.60.030.C.2 provide a path for alternative protection measures when the prescriptive path for protection is not feasible. The arborist report meets the standards for 11.60.030.C.2 and the arborist report states that the proposed tree protection provides adequate protection. Note Exhibit C.3 proposes a reduced root protection zone for Tree #12, however the arborist report does not propose a performance path root protection zone for this tree. Therefore, the standard prescriptive path of tree protection will be required with the land division. The applicant may propose the performance path for this tree at the time of development. Staff annotated exhibit C.3 to illustrate this information. The Prescriptive Path of Tree Protection is proposed for trees #8, #13.

A condition of approval requiring an Acknowledgement of Tree Preservation Land Use Conditions will be required to be recorded and annotated on the plat. With the implementation of the noted condition of approval and preservation of the trees noted above, the approval criteria will be met.

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

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

**Findings:**

**Clearing and Grading:** The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

In this case, the site is primarily level and is not located within the Potential Landslide Hazard Area. The applicant's revised statement (Exhibit A.4) states that a minimum amount of clearing and grading is needed for construction on Parcel 2, and will be limited to areas of the site necessary for construction of a single family dwelling and necessary infrastructure. Further, the narrative states that topsoil will be preserved for use on the site and will be located in areas designated for clearing and grading and indicates that tree protection measures will function to protect preserved trees. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. 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/cesspool on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

**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. A Private Access Easement is required over the flag pole of Parcel 2 to provide a shared access serving Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement 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 agreements is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block substantially similar to the following example:

*"A Declaration of Maintenance agreement for a private access easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

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

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

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts: the

availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts.

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

*The applicant provided brief written statements to address each evaluation factor of the approval criteria. The proposed land division will divide one existing parcel into two parcels. An existing home is located on the subject parcel. Based on City GIS data, it appears as if one single-family home is currently located on the subject parcel. The proposed development will create the potential for the development of an additional single-family home. According the ITE Trip Generation Manual, 9th Edition, a 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. The application states that a proposed garage will provide an on-site parking space for the proposed development, and an existing driveway provides access to and parking for the existing dwelling. The proposed development thereby provides for on-site parking and loading, minimizing impacts on-street. On-street parking will be retained. The proposed development is approximately 200-ft from a stop for bus # 71 and approximately 0.6 miles from a stop for bus # 12. Sufficient transit services and facilities are provided. With the condition of Building Permit approval, the applicant is required to reconstruct the sidewalk corridor at this location to provide a 12-ft sidewalk, pedestrian access to the subject parcel provides for pedestrian safety and reduces impacts to the neighborhood. The existing transportation system provide safety for all other modes.*

Curb cuts and driveway construction must meet the requirements in Title 17. According to the City's GIS, the proposed driveway is located 42 feet from the intersection of NE Prescott Street and NE 71<sup>st</sup> Avenue, therefore the proposed driveway location is in accordance with Title 17 and a Driveway Design Exception is not required. The existing driveway approach located at the western property line must be closed prior to approval of the final plat. Driveway access will be shared for both Parcel 1 and Parcel 2 within the pole portion of Parcel 2.

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

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

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

<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant proposes the following stormwater management methods:
<b>Parcel 1:</b> According to the drawing submitted by the applicant, stormwater from the existing

house discharges to a drywell located at the northeast corner of the house. This location does not appear to conflict with the proposed new property line.

**Parcel 2 and Flag Lot Driveway:** The applicant provided a revised Simplified Approach Form which includes sizing calculations for the proposed facilities. Based on this form, the applicant proposes to install two drywells; one will manage stormwater from the new house roof area and the other will manage stormwater from the driveway. BES did not receive a revised site utility plan showing the location of the proposed facility. However, there is sufficient space on the site for drywells to meet required setbacks. Additional information may be required at the time of permit review.

Based on this additional information, BES has determined that sufficient information has been provided to demonstrate a feasible stormwater management plan for this project. BES has no further objections to approval of the land division application.

The Stormwater Management criteria and standards of 33.653.020 & .030 have been verified.

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

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. The block dimensions are approximately 500 feet by 435 feet. The Portland Bureau of Transportation responded that the subject parcel complies with street spacing standards. Therefore, a new street is not required. The creation of a pedestrian connection is impeded at this location by existing single-family homes located adjacent to the subject parcel, and the fact the east property boundary is approximately 190-feet from NE 72<sup>nd</sup> Avenue, which provides a north-south through street connection in the vicinity of the site. Therefore, street and pedestrian connections are not required in relation to the proposed development. For the reasons described above, this criterion is met.

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

At this location, NE Prescott is improved with a 40-ft paved roadway and 10-ft sidewalk corridor (3.5-5-1.5 configuration) within a right of way of 60-ft. The Portland Pedestrian Design Guide specifies that the standard sidewalk corridor at this location on NE Prescott is 12-ft wide, to include a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 1.5-ft frontage zone. As a condition of Building Permit approval, the applicant is required to construct standard improvements behind the curb on the entire existing parcel frontage

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that curb and sidewalk improvements must be made in order to meet City standards ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, additional right-of-way must be dedicated along the frontage of the site. PBOT responded that at least a 2-foot dedication will be required, however the exact amount of right of way dedication will be determined at the time a survey for street improvements is submitted. With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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

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



## DEVELOPMENT STANDARDS

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

### Future Development

Among the various development standards that will be applicable to this lot, the applicant should take note that **special setback standards apply to flag lots** that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 2.

**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 R7 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 30-feet from the new easterly property line at the flag lot pole and approximately 50-feet from the new, northerly property line of Parcel 1. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. A detached garage provides this required parking for the existing house on Parcel 1. The garage was recently demolished (17-144188 RS) to make room for the proposed development. As a result of this land division, the required parking space for the existing house will be located on a different lot. 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 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development

	Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for payment of a Fee in Lieu of planting of \$487.50 (Loss of space for one tree at \$325 an inch for a 1.5 inch tree) required for lost street tree planting spaces. Payment to be made prior to final Plat approval. This requirement is based on the standards of Title 11.

## CONCLUSIONS

The applicant has proposed a two-parcel partition with one standard parcel and one flag-lot parcel, as shown on the attached preliminary plan (Exhibit C.2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation, street frontage improvements, maintaining setbacks for the existing house, stormwater management. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a two-parcel partition, that will result in one standard lot and one flag lot as illustrated with Exhibit C.2, subject to the following conditions:

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

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

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

1. The applicant shall meet the street dedication requirements of the City Engineer for NE Prescott Street. The required right-of-way dedication must be shown on the final plat, as required by condition C.1, below.
2. A Private Access Easement over the “flag pole” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.

3. A recording block for each of the legal documents such as maintenance agreements, acknowledgement of special land use conditions as required by Conditions C.6 and C.7 below. The recording blocks shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for a private access easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records”; and “A Declaration of Maintenance Agreement for Tree Preservation Land Use Conditions has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

**Streets**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site’s street frontage. The applicant must obtain an approved Right of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the frontage of Parcel 1 where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of Parcel 2 may be constructed with development on each lot as per the City Engineer’s discretion.

**Utilities**

2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
3. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way, as required in Chapter 5 of the Oregon Fire Code and demonstrate an adequate turning radius and driving surface. Alternately, the applicant will be required to install residential sprinklers if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

**Existing Development**

4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system/cesspool on the site.
5. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. The parking space must be a minimum of 9' x 18' and located outside of the front building setback of Parcel 1. 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 C.4 of LU 17-164072 LDP.*** The surveyed location of the new off-street parking space must also be shown on the supplemental plan.

**Required Legal Documents**

6. A Maintenance Agreement shall be executed for the private access easement described in Condition B.2 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.
7. 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.

8. If required per conditions C.2 and/or C.3, in order to meet Fire Bureau requirements, the applicant shall execute and Acknowledgement of Special Land Use Conditions requiring residential development to install internal sprinklers or meet applicable appeal requirements.

**Other requirements**

9. The applicant must pay into the City Tree Preservation and Planting Fund for lost street tree planting spaces. Payment to be made prior to final Plat approval. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

**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 the Tree Preservation Plan (Exhibit C.3) and the applicant's arborist report (Exhibit A.3). Specifically, trees numbered 1, 2, 8, 12 and 13 are required to be preserved, with the root protection zones indicated on Exhibit A.3. Tree protection fencing is required along the root protection zone of each tree to be preserved. 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 if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist, explaining that the arborist has approved of 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. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers on Parcel 2. Please refer to the final plat approval report for details on if this requirement applies.
4. If a fire code appeal is not required, fire bureau turning radius and driving surface requirements may apply within the pole portion of Parcel 2 at the time of development.
5. Vehicle access to Parcels 1 and 2 must be from the flag pole of Parcel 2. A separate driveway is not allowed along the frontage of Parcel 1.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **on January 25, 2018**

By authority of the Director of the Bureau of Development Services

**Decision mailed January 29, 2018**

**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 May 1, 2017, and was determined to be complete on October 11, 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 May 1, 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 requested that the 120-day review period be extended by 245 days as stated with Exhibit G.5. Unless further extended by the applicant, **the 120 days will expire on: October 11, 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](http://www.portlandonline.com).

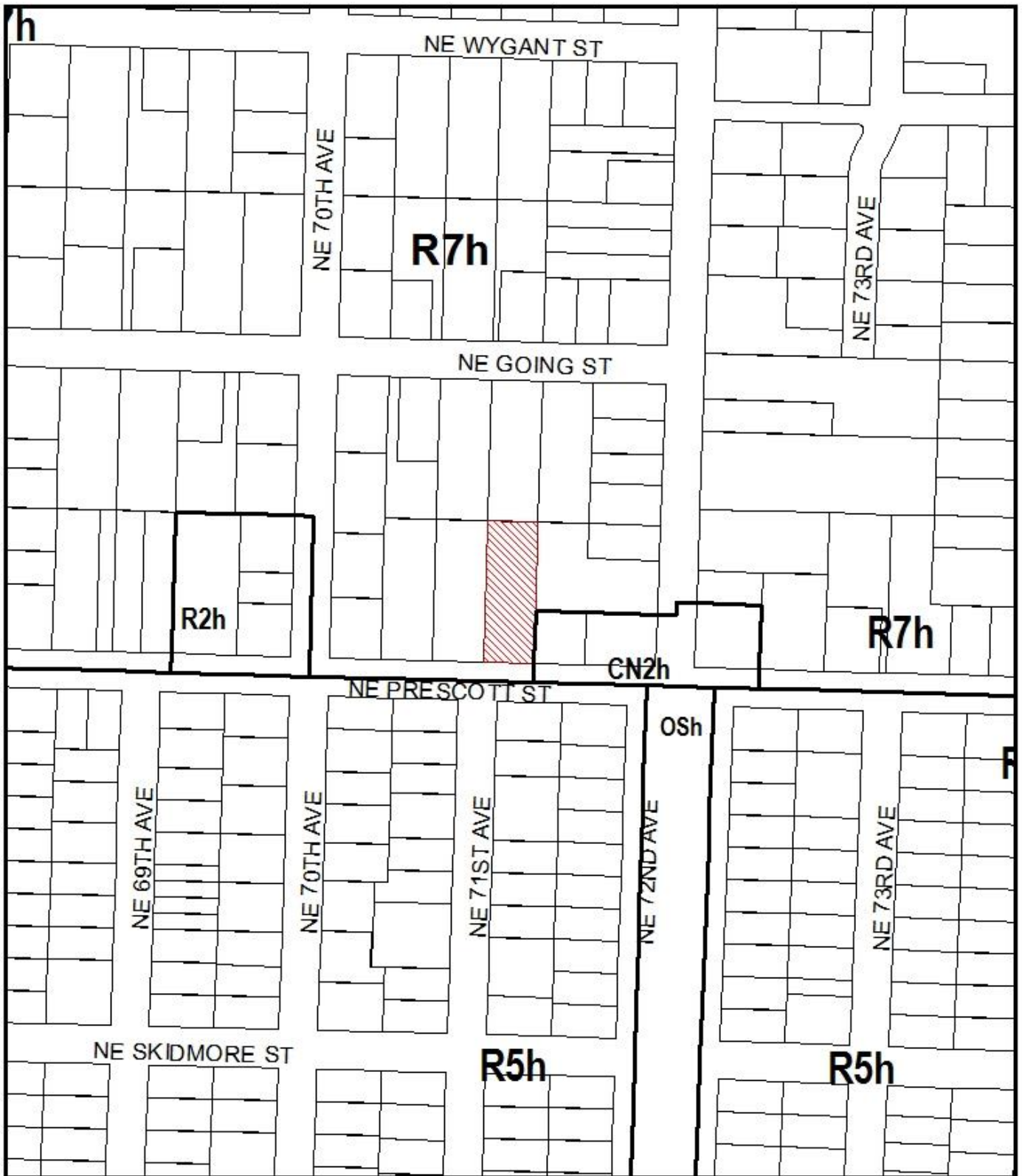
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Submittal and Applicant's Narrative
  - 2. Applicant's 180-day Letter
  - 3. Applicant's Arborist Report (October 11, 2017)
  - 4. Revised Narrative (October 11, 2017)
  - 5. Simplified Stormwater Approach (December 22, 2017)
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Plan
  - 2. Preliminary Land Division Plan (attached)
  - 3. Tree Survey and Tree Preservation 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
  - 7. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application
  - 2. Expedited Land Division Acknowledgement
  - 3. Completeness Letter
  - 4. BDS Communication to Applicant regarding BES and Life Safety Responses
  - 5. 120-Day Extension Request Form

**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 17-164072 LDP  
 1/4 Section 2537  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E20BD 5200  
 Exhibit B (May 04, 2017)

PARTITION PLAT NO. 2017-\_\_\_\_\_  
 A REPLAT OF LOT 9, BLOCK 5, "PADDOCK ACRES",  
 IN THE NORTHWEST QUARTER OF SECTION 20,  
 TOWNSHIP 1 NORTH, RANGE 2 EAST, OF THE  
 WILLAMETTE MERIDIAN, CITY OF PORTLAND  
 COUNTY OF MULTNOMAH, STATE OF OREGON  
 SURVEYED: JULY 2, 2017  
 SCALE:  
 1" = 50'

SCALE: 1" = 50'



**LEGEND**

- SET 5/8"x3/32" IRON ROD WITH ORANGE PLASTIC CAP INSCRIBED "ANDERSON PLS 1796" FLUSH, IN
- FOUND PUBLIC LAND CORNER AS DESCRIBED
- FOUND MONUMENT AS NOTED
- FOUND MONUMENT AS NOTED
- CU ORIGIN UNKNOWN
- WYPC YELLOW PLASTIC CAP INSCRIBED AS NOTED
- IR IRON ROD
- IP IRON PIPE
- BT MULTNOMAH COUNTY BEARING TREE RECORD
- (-)-1 DATA PER RECORD INDICATED
- D DEED
- POB POINT OF BEGINNING
- SN SURVEY NUMBER
- CFR CALCULATED FROM RECORD INDICATED
- SQ FT. SQUARE FEET

**ANDERSON SURVEYING, LLC**  
 205 W. HEINTZ ST., UNIT 737  
 MOLALLA, OR 97038  
 503-318-8291  
 aurveyor@molalla.net



RENEWAL DATE: 12/31/2017

EXHIBIT C-2

**REFERENCES**

- R-1 SN 2233 FILED MARCH 6, 1950
- R-2 SN 2233 FILED MARCH 6, 1950
- R-3 PARTITION PLAT 2000-27, RECORDED APRIL 3, 2000
- R-4 SN 47355 FILED DECEMBER 12, 1983
- R-5 SN 2747 FILED DECEMBER 28, 1980
- R-6 SN 4520 FILED DECEMBER 28, 1980
- R-7 SN 4920 FILED AUGUST 28, 1921
- R-8 SN 25684 FILED NOVEMBER 14, 1897
- R-9 PARTITION PLAT 2014-22 RECORDED APRIL 11, 2014
- R-10 SN 4520 FILED DECEMBER 28, 1980
- R-11 SN 11005 DATED NOVEMBER 19, 1986
- R-12 SN 8342 FILED JANUARY 31, 1981
- R-13 SN 4514 FILED APRIL 24, 1972
- R-14 SN 41163 FILED JANUARY 2, 1960

**NOTES:**

THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN CASE FILE NO. \_\_\_\_\_  
 BEARINGS AND DISTANCES ALONG UNMONUMENTED LOT LINES ARE RECORDED AS SHOWN ON R-1 AND R-3, AND ARE SHOWN FOR REFERENCE ONLY.





# Attachment 1

PARTITION PLAT NO. 2016-\_\_\_\_\_  
A REPLAT OF LOT 9, BLOCK 5, "PADDOCK ACRES",  
IN THE NORTHWEST QUARTER OF SECTION 20,  
TOWNSHIP 1 NORTH, RANGE 2 EAST, OF THE  
WILLAMETTE MERIDIAN, CITY OF PORTLAND,  
COUNTY OF MULTNOMAH, STATE OF OREGON  
SURVEYED: NOVEMBER 1, 2016  
SCALE: 1" = 50'



### LEGEND

- SET 5/8"x30" IRON ROD WITH ORANGE PLASTIC CAP INSCRIBED "ANDERSON PLS 1795" FLUSH IN \_\_\_\_\_
- FOUND PUBLIC LAND CORNER AS DESCRIBED
- FOUND MONUMENT AS NOTED
- ○ ○ ORIGIN UNKNOWN
- ○ ○ YELLOW PLASTIC CAP INSCRIBED AS NOTED
- IR IRON ROD
- IP IRON PIPE
- BT MULTNOMAH COUNTY BEARING TREE RECORD
- (-) DATA PER RECORD INDICATED
- D DEED
- POB POINT OF BEGINNING
- SN SURVEY NUMBER
- CFR CALCULATED FROM RECORD INDICATED
- SQ. FT. SQUARE FEET

*TRICE PRESERVATION*

\* #1 24" Blue Aler Cedar

\* #2 Douglas Fir 10"

#8 Western Red Cedar 17"

#12 Sculus Willow 19"

#13 Plum 8"

\* *note: Tree #1, #2 performance path of protection*

**ANDERSON SURVEYING, LLC**  
205 W. HEINTZ ST., UNIT 737  
MOLALLA, OR 97038  
503-318-8291  
surveyor@molalla.net



RENEWAL DATE: 12/15/2017

### REFERENCES

- R-1 "PADDOCK ACRES"
- R-2 SN 2233 FILED MARCH 6, 1950
- R-3 SN 47385 FILED DECEMBER 12, 1983
- R-4 SN 57947 FILED FEBRUARY 19, 2002
- R-5 SN 45207 FILED DECEMBER 26, 1980
- R-6 SN 45630 FILED AUGUST 26, 1921
- R-7 SN 45630 FILED AUGUST 26, 1921
- R-8 PARTITION PLAT 2016-2 RECORDED APRIL 11, 2014
- R-9 PARTITION PLAT 2008-3 RECORDED JUNE 27, 2008
- R-10 SN 11005 DATED NOVEMBER 19, 1956
- R-11 SN 20542 FILED JANUARY 31, 1961
- R-12 SN 20542 FILED JANUARY 31, 1961
- R-13 SN 44163 FILED JANUARY 21, 1980
- R-14 SN 44163 FILED JANUARY 21, 1980

**NOTES:**  
THIS PLAN IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN CASE FILE NO. \_\_\_\_\_  
BEARINGS AND DISTANCES ALONG UNMONUMENTED LOT LINES ARE RECORD AS SHOWN ON R-1 AND R-3, AND ARE SHOWN FOR REFERENCE ONLY

**Tree Density**  
3,544 sq. ft. required for parcel 1;  
2,500 sq. ft. preserved+2,000 sq. ft. planted=4,500 sq. ft. provided  
3,348 sq. ft. required for parcel 2;  
3,000 sq. ft. preserved+1,000 sq. ft. planted=4,000 sq. ft. provided

SOUTHWEST CORNER OF NORTHWEST QUARTER SECTION 20, T11, R2E, W4M 4 1/4" MULTNOMAH COUNTY BRASS DISK DOWN 8" IN MONUMENT WELL PER BT BOOK F, PAGE 113

SOUTHWEST CORNER OF NORTHWEST QUARTER SECTION 20, T11, R2E, W4M 4 1/4" MULTNOMAH COUNTY BRASS DISK DOWN 8" IN MONUMENT WELL PER BT BOOK F, PAGE 113

**REMOVED**  
CASE NO. 141716-2017-LVP  
EXHIBIT C-3