



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

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**Date:** January 30, 2017  
**To:** Interested Person  
**From:** William Piro, 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 17-252096 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Kevin Partain | Urban Visions  
223 NE 56th Avenue | Portland, OR 97213-3705  
503-421-2967 | [kevinp@Gorge.net](mailto:kevinp@Gorge.net)

**Property Owner:** Exceptional Homes By Andre Inc  
14237 Bridge Ct | Lake Oswego, OR 97034-2177  
503-422-6161

**Site Address:** 4053 N. COMMERCIAL AVE

**Legal Description:** BLOCK 16 LOT 3, CENTRAL ALBINA  
**Tax Account No.:** R146802440  
**State ID No.:** 1N1E22DB 19700  
**Quarter Section:** 2630

**Neighborhood:** Boise / [boiselanduse@gmail.com](mailto:boiselanduse@gmail.com)  
**Business District:** Soul District Business Association / [outreach@nnebaportland.org](mailto:outreach@nnebaportland.org)  
**District Coalition:** Northeast Coalition of Neighborhoods / Jessica Rojas / 503-388-5030

**Zoning:** Single Dwelling Residential 2,500 (R2.5)  
Alternative Design Density (a) overlay

**Plan District:** None

**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 is proposing to subdivide a 5,000-square foot site into two parcels. Parcel 1 and 2 will be configured as "narrow lots" for attached housing allowed by the lot

dimension requirements of Chapter 33.611 in the R2.5 zone. Onsite parking is proposed for each unit and will be accessed by an alley abutting the western property line.

All existing development is proposed to be removed. Water and sanitary sewer services are proposed from existing utilities located within N. Commercial Avenue for Parcels 1 and 2. Stormwater will be managed on each parcel by on-site drywells. There are no trees over 6-inches diameter-at-breast-height (DBH).

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.

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 (2 parcels). 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:** The subject site is a rectangular piece of land composed of approximately 5,000-square feet. The property is currently developed with a single-family residence which will be demolished. The topography of the site is predominantly flat, and no large (regulated 6-inches or larger) trees are located on site.

Properties in the immediate vicinity are developed primarily with single-dwelling residential homes in the R2.5 zone. Approximately 150-feet to the west, the zoning transitions to multi-dwelling R2 (Residential 2000) and consists of a mixture of multi-dwelling and single-dwelling development. To the south approximately 275-feet at the intersection of N. Commercial Avenue and N. Shaver Street there is a block of Open Space zoning containing a former middle school.

**Infrastructure:**

- **Streets** – The site has approximately 50-feet of frontage on N. Commercial Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, N. Commercial Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). To the west the site has approximately 50-feet of frontage along the Kerby Avenue – Commercial Avenue Alley.

According to City GIS information, N. Commercial Avenue is improved with 41-feet of curb to curb paved surface within a 60-foot right-of-way with parking and sidewalks on both sides. Along the 50-foot wide site frontage the pedestrian corridor includes a 6-foot sidewalk within a 12-foot wide sidewalk corridor. The Kerby Avenue – Commercial Avenue Alley is approximately 16-feet wide and paved from N. Mason Street to the subject parcel.

Tri-Met provides transit service approximately 940-feet to the west from the site at N. Mississippi Avenue via bus No.4 and approximately 850-feet from the site to the east at N. Vancouver Avenue via bus No. 44.

- **Water Service** – There is an existing 8-inch CI water main in N. Commercial Avenue. The existing house is served by a 5/8-inch metered service from this main.

- **Sanitary Service** - There is an existing public 12-inch clay combination sewer line in N. Commercial Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

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

The Alternative Design Density (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 December 15, 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.

| <b>Criterion</b> | <b>Code Chapter/Section and Topic</b>              | <b>Findings: Not applicable because:</b>  |
|------------------|--|---|
| B                | 33.630 – Tree Preservation                         | No trees 6-inches or larger are located on the site. See findings for Criterion G, Clearing and Grading, regarding protection for off-site trees. |
| C                | 33.631 - Flood Hazard Area                         | The site is not within the flood hazard area.   |
| D                | 33.632 - Potential Landslide Hazard Area           | The site is not within the potential landslide hazard area.   |
| E                | 33.633 - Phased Land Division or Staged Final Plat | A phased land division or staged final plat has not been proposed.  |
| F                | 33.634 - Recreation Area                           | The proposed density is less than 40 units.   |
| H                | 33.636 - Tracts and Easements                      | No tracts or easements have been proposed or will be required.  |
| I                | 33.639 - Solar Access                              | 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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey, the site area is 5,000 square feet. The maximum density in the R2.5 zone is one unit per 2,500 square feet which would allow for 2 units under this provision. The minimum density is one unit per 5,000 square feet; therefore, a minimum of 1 unit (when rounded) is required on the site.

The applicant is proposing 2 parcels with attached housing, which is within the allowed density range. The required and proposed lot dimensions are shown in the following table:

Table 1 – Lot Dimension Requirements

|                  | Min. Lot Area (square feet) | Max. Lot Area (square feet) | Min. Lot Width* (feet) | Min. Depth (feet) | Min. Front Lot Line (feet) |
|------------------|-----------------------------|-----------------------------|------------------------|-------------------|----------------------------|
| <b>R2.5 Zone</b> | 1,600                       | NA                          | 36                     | 40                | 30                         |
| Parcel 1         | 2,500                       |                             | 25                     | 100               | 25                         |
| Parcel 2         | 2,500                       |                             | 25                     | 100               | 25                         |

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

Narrow Lots

Parcel 1 and Parcel 2 will both be 25-feet wide — narrower than the minimum width for the R2.5 zone, as shown in Table 1 above. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of 33.611.200.C for R2.5 zones as follows:

***On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations for R2.5.***

The purpose of Lot dimension regulations in the R2.5 zone are as follows:

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

The applicant has demonstrated that the proposed parcels are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided a Preliminary Plat and Tree Protection Plan (*Proposed Improvement Plan*, Exhibit C.1) that depicts a conceptual building footprint for an attached housing structure that meets all applicable setback requirements and provides vehicle access to parking pads from the abutting alley. Therefore, they have demonstrated that the proposed lots can accommodate a reasonably sized attached house while meeting the development standards of the zoning code.
- Each lot is proposed to be 2,500-square feet which exceeds the minimum lot area requirements in the R2.5 zone but are not so large that they are further dividable in the future. The width of Parcel 1 and 2 will both be 25-feet and comply with the minimum lot width requirements.
- The applicant's Preliminary Plat also demonstrates that each lot has access for utilities and services.
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street.
- In R2.5 zone the proposed narrow lots are compatible with existing lots as demonstrated by lot's immediately to the north of similar width and depth and within the surrounding R2.5 zone.

On balance, proposed Parcels 1 and 2 contain dimensions that are consistent with the purpose and of lot dimension regulations as demonstrated by the proceeding findings. Therefore, this standard is met.

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

- Lots 1 and 2 each measure 25-feet in width and the current proposal is for attached housing; however, detached housing would also be allowed with this lot configuration. Therefore, this standard can be met.

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

- The site abuts an improved alley to the west, and the applicant has proposed (and will be required) to provide vehicle access to all the lots from the alley.

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

- As noted above, Lots 1 and 2 will be required to take access from the from the abutting alley to the west and parking will be proposed in the rear yard of the proposed houses, there will be no street-facing garage walls. Therefore, the garage limitation standard noted above is not applicable.

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

- No vehicle access (driveway) is proposed from N. Commercial Avenue to serve the future development. Parcels 1 and 2 will be required to take access from the alley to the west. Because there will be no paved vehicle area at the front of the lots, the applicant can landscape at least 60 percent of the area between the front lot line and the front building line; therefore, this standard can be met.

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

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

Based on the foregoing, Parcel 1 and 2 can meet this criterion with the application of a conditions which requires that Parcels 1 and 2 be developed with attached houses and take access from the alley.

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

**Findings:** 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.

Clearing and Grading: The subject 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 this case, there are no regulated trees (6-inch diameter or larger, non-nuisance species) on the subject site; however, there are several trees abutting the property to the north east that are within 15-feet of potential disturbance on proposed parcel. In order to protect the off-site trees from construction impacts, the applicant provided an Arborist Report (Exhibit A.6) that recommends tree protection fencing be installed running diagonally from 10 feet west and south of the northeast property corner as shown on the Preliminary Plat and Tree Protection Plan (Exhibit C.1). Based on its location, the arborist does not recommend any protection measures for the off-site tree near the northwest property corner. Similarly, no protection measures are recommended for the off-site tree located near the southeast property corner. The arborist also calls for a qualified arborist to be onsite during demolition if the stone retaining wall, located directly south of Tree #4 (see Exhibit C.1) at the northeast property corner, is removed.

With a condition that calls for the implementation of those measures this will help to limit impacts to the neighboring trees at the time of development on Parcel 1.

**Land Suitability:** The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval.

With the noted conditions, the new lots can be considered suitable for development, and this criterion is met.

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

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

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

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

*The applicant provided a written narrative to address the transportation approval criteria. Based on City GIS data, it appears as if one single-family home is currently located on the subject parcel. The subject application proposes the division of one parcel into two parcels, which can each accommodate one single-family home. The site plans that the applicant provided show that two attached dwellings with two separate attached garages are proposed. Therefore, the proposed development will create the potential for the development of one additional single-family home. According the ITE Trip Generation Manual, 9<sup>th</sup> Edition, a new single-family dwelling is expected to generate approximately ten trips per day, including one additional trip during the morning peak hour and one additional trip during the evening peak hour. Based on that information, the proposed development will not significantly impact street capacity or level-of-service.*

*The proposed curbside vehicle access and loading area, as well as the parking area on each parcel will be sufficient to accommodate vehicle access and loading for one additional dwelling. Based on City GIS data, the existing sidewalks on N. Commercial include 6-ft sidewalks that comply with current City standards, which provide sufficient pedestrian access. Based on google maps, stops for bus stops 4 and 44 are 0.2 miles or less from the proposed development; the proposed development site provides sufficient availability of transit service and facilities. The proposed development will not negatively impact transit service or safety for any mode. The transportation system is capable of supporting the proposed development in addition to existing uses in the area.*

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.

#### **Driveways and Curb Cuts. Code/Title 17 Requirements (Section 17.28)**

The applicant has proposed access from the Kerby Avenue – Commercial Avenue alley that abuts the western property line. PBOT provided the following findings regarding this access:

*Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits. **As a condition of Building Permit approval, the applicant is required to set the garage doors facing the alley to be back from the alley by 4-ft to provide sufficient maneuvering clearance area.***

With the requirement to set parking spaces back to adequately provide for maneuvering areas the requirements for Driveways and Curb Cuts under Title 17 can be 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 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.

**33.652 Sanitary Sewer Disposal Service standards** – 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.

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

BES evaluated the applicant's proposed stormwater management plan and determined the following:

▪ **Stormwater Tract:** No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

- **Public Street Improvements:** There are no public right-of-way improvements that will trigger BES public stormwater drainage improvements
- **Parcels 1 – 2:** Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells.

Based on these factors, these criteria are met.

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

N. Commercial Avenue is improved with a paved roadway and curbs and sidewalks on both sides of the street. The property also abuts, and will take access from, a 16-foot wide alley to the west. In reviewing this land division, the Portland Bureau of 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.

PBOT provided the following comments (Exhibit E.2):

*The Portland Transportation System Plan (TSP) classifies N. Commercial at this location as a Local Service Streets for all modes.*

*N. Commercial at this location is improved with a 41-ft paved roadway and 12-ft sidewalk corridor, in a 60-ft ROW. The Kerby Avenue - Commercial Avenue Alley at this location appears to be 16-ft in width. Note: The information in this document is derived from City of Portland GIS data, which may be inaccurate. For accurate ROW information, a survey will be necessary.*

*Standard improvements recommended by the Pedestrian Design Guide, at this location on N. Commercial include an 11-ft sidewalk corridor, to consist of a 0.5-ft curb, 4-ft frontage zone, 6-ft furnishing zone, and 0.5-ft frontage zone. **The existing improvements exceed current City standards. Therefore, the applicant is not required to reconstruct and replace the sidewalk corridor at this location.** The applicant is required as a condition of Building Permit approval to close any curb cuts that do not access a legal parking or loading space*

*It appears as if 25-feet of alleyway from N. Mason is paved. Therefore, the applicant is not required to paved the alley. However, as a condition of Building Permit approval, the applicant is required to provide a compacted grade/gravel section to the parcel access point, if the paving does not already reach the access point*

Based on the foregoing, with the conditions that the applicant is required to close any curb



cuts that do not access a legal parking or loading space and that a compacted grade/gravel section is provided from the alley to the access point of the lot, this criterion will be 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.

## **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 the parcels, the applicant should take note of:

Narrow Lots: Development on Parcels 1 and 2 will be limited to attached houses and must meet the following standards at the time of development permitting:

- Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
- Where the street-facing facade is less than 22 feet long, an attached garage is not allowed as part of that façade per 33.110.253.D.3.b.
- Landscaping must be provided in accordance with 33.110.240.C.2.d

Tree Code: 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.

## **OTHER TECHNICAL REQUIREMENTS**

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

| <b>Bureau</b>   | <b>Code Authority and Topic</b>   |
|---|---|
| Development Services/503-823-7300<br><a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>                 | Title 24 – Building Code, Flood plain<br>Title 10 – Erosion Control, Site Development<br>Administrative Rules for Private Rights-of-Way |
| Environmental Services/503-823-7740<br><a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>               | Title 17 – Sewer Improvements<br>2008 Stormwater Management Manual  |
| Fire Bureau/503-823-3700<br><a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>                        | Title 31 Policy B-1 – Emergency Access  |
| Transportation/503-823-5185<br><a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a> | Title 17 – Public Right-of-Way Improvements<br>Transportation System Plan   |
| Urban Forestry (Parks)/503-823-4489<br><a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>           | Title 11 –Trees   |
| Water Bureau/503-823-7404<br><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.

**Urban Forestry:** The applicant must meet the requirements of Urban Forestry for street tree planting. This requirement is based on the standards of Title 11.

## 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 are:

- Narrow Lot Criteria and Development Standards
- Tree Protection for Off-Site Trees
- Alley Improvements and Driveway Design
- Demolition of Existing Structures

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2-parcel partition, that will result in 2 “narrow lots” for attached or detached houses, as illustrated with Exhibit C.1, subject to the following conditions:

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

#### **Existing Development**

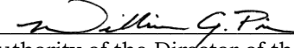
1. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City’s Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources. The site plan for the demolition permit must show tree protection fencing as indicated on Exhibit C.1. All demolition work must be in conformance with the recommendations in the applicant’s arborist report (Exhibit A.6).

### **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 protection fencing shown on Exhibit C.1 and the applicant's arborist report (Exhibit A.6). Specifically, fencing is required in the northeast property corner of Parcel 1 as indicated on Exhibit C.1 to protect the trees on the abutting property. 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 under the supervision of a certified arborist.
2. Parcels 1 and 2 are “narrow lots” and if developed with attached dwellings those must be in accordance with the R2.5 development standards.
3. Vehicular access to Parcel 1 and 2 must be from the abutting public alley. Curb cuts are not permitted from N. Commercial Avenue.
4. At the time of building permit the applicant must meet the Portland Bureau of Transportations requirement to close any curb-cuts that do not access a legal parking space along the N. Commercial Avenue street frontage.
5. The applicant must set back any required parking spaces or garage doors abutting the alley to provide sufficient maneuvering area to the satisfaction of the Portland Bureau of Transportation.

6. The applicant must meet the Portland Bureau of Transportations requirement to provide a compacted grade/gravel section from the paved portion of the existing Kerby Avenue – Commercial Avenue alley to the parcel access point.

**Staff Planner: William Piro**

**Decision rendered by:**  **on (Jan 25, 2017)**  
By authority of the Director of the Bureau of Development Services

**Decision mailed (January 30, 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 October 6, 2017, and was determined to be complete on December 5, 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 October 6, 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: April 4, 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. Narrative and Plans – October 6, 2017
  - 2. Simplified Approach Form and Stormwater Report – October 6, 2017
  - 3. Revised Narrative Addressing PZC 33.611.200 – December 5, 2017
  - 4. Revised Existing Conditions Plan – December 5, 2017
  - 5. Revised Preliminary Plat and Tree Protection Plan – December 5, 2017
  - 6. Arborist Report – December 5, 2017
  - 7. Revised Preliminary Plat – January 25, 2017
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Plat and Tree Protection (attached)
  - 2. Existing Conditions Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Residential Plan Review Response
- F. Correspondence: None Received
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. Expedited Land Division Acknowledgment
  - 4. Email to Kevin Partain, 1-22-2018

**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 17-252096 LDP  |
| 1/4 Section | 2630              |
| Scale       | 1 inch = 200 feet |
| State ID    | 1N1E22DB 19700    |
| Exhibit     | B Oct 09, 2017    |

