



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: October 31, 2018
To: Interested Person
From: William Piro, Land Use Services
503-823-6039 / William.Piro@portlandoregon.gov

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 17-276363 LDP

GENERAL INFORMATION

Applicant: Nathan Arnold | Faster Permits
2000 SW 1st Ave., Suite 420 | Portland, OR 97201
(503) 438-8113 | nathan@fasterpermits.com

Owner/Owner's Representative: Slavik Dezhnyuk | Alpina Properties LLC
10117 SE Sunnyside Rd #F PMB1123 | Clackamas, OR 97015
(503) 209-7561 | slavikdez@gmail.com

Site Address: 4545 N. BORTHWICK AVE

Legal Description: LOT J, CLIFFORD ADD
Tax Account No.: R163903890
State ID No.: 1N1E22BD 08700
Quarter Section: 2529

Neighborhood: Humboldt, contact HNAnews@gmail.com.
Business District: Soul District Business Association, contact at info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact Jessica Rojas at 503-388-5030.

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

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

Proposal: The applicant is proposing to subdivide a 6,000-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 a shared driveway abutting N. Borthwick Ave.

All existing development is proposed to be removed. Water and sanitary sewer services are proposed from existing utilities located within N. Borthwick Ave. and stormwater will be managed by on-site drywells. There are a total of 7 trees onsite all of which are less than 20-inches in diameter and six are exempt from tree preservation requirements pursuant to Chapter 33.630.030. The only non-exempt tree is a 17-inch kwanza cherry tree (*Prunus kanzan*) located in the north-west corner of the site. This tree is subject to tree preservation requirements and the applicant has proposed to retain the tree on site.

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.**

Facts

Site and Vicinity: The subject site is a rectangular piece of land composed of approximately 6,000-square feet and is currently developed with a single-family residence and a detached garage. Both existing structures will be demolished. The topography of the site is predominately flat. There are a total of 7 trees onsite. The only non-exempt tree is a 17-inch Kwanza cherry tree in the north-west corner of the site.

Properties east of the site are developed primarily with single-dwelling residential homes in the R2.5 zone. Immediately west of the property the zoning becomes employment EX (Central Employment) with a Design Overlay Zone “d”. This mixed-use area contains several retail sales and services businesses, single and multi-dwelling housing, and traditional office uses (including a dentist office that abuts the property).

Infrastructure:

- **Streets** – The site has approximately 60-feet of frontage on N. Borthwick Ave. There is one driveway entering the site that serves the existing house. At this location, N. Borthwick Ave. is classified as a Local Service Street for all modes in the Transportation System Plan (TSP).

According to City GIS information, N. Borthwick Ave. is improved with 28-feet of curb to curb paved surface within a 60-foot right-of-way with parking and sidewalks on both sides. The pedestrian corridor abutting the site includes a 6-foot sidewalk within a 16-foot wide sidewalk corridor.

Tri-Met provides 20-min peak hour service approximately 100-feet to the west of the site at N. Albina Ave. (Transit Street) via bus No. 4 and approximately 1,500-feet to the east on N. Vancouver Ave. via bus No. 44.

- **Water Service** – There is an existing 6-inch CI water main in N. Borthwick Ave. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 12-inch VSP public combination sewer line in N. Borthwick Ave.
- **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 January 24, 2018. 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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	The proposal is for attached houses so, therefore, the solar standards do not apply.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.

L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey, the site area is 6,000 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)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1	3,000		30	100	30
Parcel 2	3,000		30	100	30

* 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 30-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 the 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 tree protection plan (*Site Plan – Proposed Conditions*, 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 attached garages from N. Borthwick Ave. 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 3,000-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 30-feet and will not narrow to an unworkable width close to the street.
- The applicant's preliminary Site Plan (Exhibit C.1) 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.
- On N. Borthwick Ave. there are several narrow lots that are approximately 25-30 feet wide and are developed with either attached or detached houses. Land Use Review 07-164925 approved a 2-lot partition which resulted in two narrow lots at 4723 N. Borthwick Ave. and are now developed with attached houses. Similarly, across the street from the subject site at 4550 and 4532 N. Borthwick Ave. the parcels are 30 feet wide and are developed with detached single-family houses. In addition, the applicant is proposing off-street parking via new attached garages. The retention of on-site parking will help maintain on street parking and provides continuity to the existing streetscape. In this context, the proposal is compatible with existing lots and as noted above allows for new lots that can support appropriate building footprints and structures in accordance with the allowed density of the R2.5 zone.

Based on these factors, proposed Parcels 1 and 2 contain dimensions that are consistent with the purpose and of lot dimensions 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

- Parcels 1 and 2 each measure 30-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 does not have access from an alley, so this standard does not apply.

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

- The applicant has demonstrated with Exhibit C.1 that each lot will be built with an attached house that is greater than 22-feet in width and will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.D can be met.

60 percent landscaping requirement for attached houses

- Parcels 1 and 2 will have driveways that share a common access to the public street. The driveways will be approximately 20-feet wide at the curb opening and will remain approximately 20-feet near the entrance to the garage on each lot (Exhibit C.1). This configuration results in approximately 33% of the front yard devoted to driveway area. Therefore, the remaining 67% of area can be landscaped to meet this requirement if developed with attached housing.

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

- As noted under the Facts section of this report on pages 2 and 3, Parcel 1 and 2 are exempt from minimum parking requirements due to their location within 500-feet of a transit street with 20-minute peak hour service. However, the applicant has indicated that Parcel 1 and 2 will be developed with garages that will be accessed via a shared 20-foot-wide curb cut; therefore, the garage limitation requirements described above must be met. Each parcel will be 30-feet wide and capable of supporting a house with a street-facing façade that is greater than 22-feet. Because the applicant is proposing to provide parking and not complete a covenant and because there is adequate room to provide garages along the street facing facades, the garage limitation requirements can be met.

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

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

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided a revised site plan (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided a revised arborist report (Exhibit A.6) that identifies

each tree by species and an associated tree number, its size in diameter at breast height (DBH), suitability for preservation or its exempt status, its condition, a specific root protection zone, and tree protection measures for each tree to be preserved.

Based on this information, all of the trees on site are less than 20-inches in diameter. Only one tree, a 17-inch Kwanza cherry (*Prunus kanzan*), is subject to the Tree Preservation regulations. The applicant proposes to retain this tree which is equivalent to 100 percent of the total tree diameter for trees that are eligible for preservation. The proposed root protection zone encompasses at least 2 nuisance trees, specifically, Tree #6 an English holly (*Illex aquifolium*) and Tree No. 7 an 8-inch weeping cherry (*Prunus subhirtella*). Only Tree No. 7 is proposed for removal at this time. The provided arborist reports (Exhibit A.3 and A.6) indicate that the only activities allowed within the RPZ for Tree No. 6 are surveying, measuring, and sampling tasks. However, the report does not discuss the removal of Tree No.7 within this RPZ. Therefore, in order to clarify tree protection requirements, at the time of development the applicant will be required to meet the Tree Protection Specifications of Title 11.60 to ensure Tree No. 6 is properly protected during the removal of nearby nuisance species. In concert with this requirement, the proposed root protection zone for the tree to be retained will allow for the type of development anticipated in the R2.5 zone and will not conflict with any existing utility easements, proposed services, or site grading. Therefore, the proposal complies with:

Option 4: Where all trees are less than 20 inches in diameter, preserve at least 35 percent of the total tree diameter on the site.

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

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcel 1 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1), and the original Arborist Report (Exhibit A.3).

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

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

Findings: 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. However, the applicant's original arborist report (Exhibit A.3) identified 3 trees on the property immediately to the north (4607 N Borthwick Street) that are within 15 feet of the potential disturbance area on Parcel 1. Trees numbers 9, 10, and 11 as shown on Exhibit C.1 are all 6-inch crab apple trees. Tree number 9 is approximately 8-feet north of the property line and trees 10 and 11 are between 3 and 4-feet north of the property line. The arborist did not clarify a root protection zone for these trees but indicated that clearing and grading restrictions will be addressed if proposed construction activity will affect these trees. To ensure these trees are protected, a 6-foot RPZ for trees 10 and 11 is being assigned as indicated by a "Planners Note" on the Tree Preservation Plan (Exhibit C.1).

With conditions for tree protection measures to ensure clearing and grading does not impact off-site trees, 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. 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 this condition, 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 submitted a written statement that addresses the transportation approval criteria and provides significant information regarding the transportation impacts of the proposed development. 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 development of two parcels, which can each accommodate one single-family home. Therefore, the proposed development will create the potential for the development of one 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 proposed dwelling is attached, and therefore the ITE trip generation estimate above is conservative. Based on the trip generation information, the proposed development is not expected to significantly impact street capacity or level-of-service. The application narrative states that on-site parking spots will be provided. Additionally, the applicant is required to provide a shared driveway between 20-ft and 18-ft as a condition of Building Permit approval. On-street parking and sufficient loading space will be provided. The existing 16-ft sidewalk corridor provides pedestrian access. Based on google maps, stops for the buses #4 is within 0.1 mile and the stop for bus #44 is 0.4 miles 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. These criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report. The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p>
<p>The Bureau of Environmental services has evaluated the applicant’s proposed stormwater management plan and determined the following:</p> <ul style="list-style-type: none"> • 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 and 2: Stormwater from these lots 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.
<p>33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment</p>
<p>North Borthwick Ave. is improved with a paved roadway and curbs and sidewalks on both sides of the street. 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.</p> <p>PBOT provided the following comments (Exhibit E.2):</p> <p><i>At this location, the City’s Transportation System Plan (TSP) classifies N Borthwick Ave at this location as a Local Service Street for all modes.</i></p> <p><i>At this location, N Borthwick is improved with a 28-ft paved roadway and 16-ft sidewalk corridor, in a 60-ft ROW. Note: The information in this document is derived from City of Portland GIS data, which may be inaccurate. A survey will be necessary for accurate ROW information.</i></p> <p><i>The existing 16-foot sidewalk corridor with a 6-ft sidewalk exceeds the 11-ft sidewalk corridor that is the city standard at this location. Therefore, improvements and dedication are not required in relation to the proposed development. AS such, this criterion is met</i></p> <p><i>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. The applicant is required to close the existing curb cut/driveway and reconstruct the curb and sidewalk at this location.</i></p> <p>Portland Bureau of Transportation has noted in their response that the applicant will be required to close the existing curb cut and reconstruct the sidewalk at this location in accordance with Title 17, at time of building permits.</p>
<p>33.654.120.H – Standard for Street Trees</p>
<p>Urban Forestry reviewed this land division proposal for its impact on existing street trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Trees Code. The applicant provided a proposed development and a tree preservation plan, which includes conceptual street tree plantings (Exhibit C.6). This plan shows the protection of an existing 27-inch Kwanzan cherry (<i>Prunus serrulate</i>) street tree in the right-of-way abutting Parcel 1 and one new street tree planted in front of Parcel 2. This plan meets the</p>

requirements of 11.50.060 for street tree planting; however, Urban Forestry has noted in their revised response (Exhibit A.6.b.) that the existing street tree has been found to have a significant structural defect and must be removed. At the time of development, the applicant will be responsible for meeting street tree requirements to the satisfaction of Urban forestry.

With the requirements noted above, this standard is met

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

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those of Title 33 can be met or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

Future Development

Among the various development standards that will be applicable to this lot, the applicant should take note of:

Narrow Lots-- development on Parcels 1 and 2 will be subject to 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
- Landscaping must be provided in accordance with 33.110.240.C.2
- The length of the garage wall facing the street may be up to 50 percent of the length of the street-facing building façade, per 33.110.253.D.3.a
- Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.D.3.b

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.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development

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

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

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

Fire Bureau: The applicant must meet the requirements of the Fire Bureau in regard to: fire flow/water supply, addressing of structures, and aerial department fire access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

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
- Street Tree Preservation
- 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, as illustrated with Exhibit C.1, subject to the following conditions:

A. The final plat must show the following:

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: An “Acknowledgement of Tree Preservation Land Use Condition” has been recorded as document no. _____, Multnomah County Deed Records.”

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

Utilities

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

Existing Development

2. The applicant must obtain a finalized demolition permit for removing the existing residence on the site and capping the existing sanitary sewer connection.
3. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2.

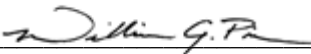
Required Legal Documents

4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1. 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.

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

1. Development on Parcel 1 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.3). Specifically, tree number 6 is required to be preserved, with the root protection zones indicated on Exhibit C.1. In addition, off-site trees numbered 10 and 11 are to be protected with the root protection zone indicated on Exhibit C.1. Tree protection fencing is required along the root protection zones of each tree to be preserved and/or protected. 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 Tree Protection Specifications in Title 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 his/her 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.

Staff Planner: William Piro

Decision rendered by:  on October 29, 2018.
By authority of the Director of the Bureau of Development Services

Decision mailed: October 31, 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 November 29, 2017, and was determined to be complete on January 16, 2018.

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 November 29, 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 a total of 180 days as stated with Exhibit (A.8 and A.9). Unless further extended by the applicant, **the 120 days will expire on: November 13, 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 Ave., Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Project Description and Narrative Addressing Land Division Approval Criteria.
 - 2. Original Site Plan
 - 3. Original Arborist Report and Tree Plan
 - 4. Simplified Approach Form
 - 5. Fire Flow Request Form
 - 6. September 10, 2018 - Revised Arborist Report
 - 7. September 10, 2018 - Revised Site Plan
 - 8. 120-Day Extension (April 5, 2018)
 - 9. 120-Day Extension (September 12, 2018)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 6.a Bureau of Parks, Forestry Division
 - 6.b Bureau of Parks, Forestry Division
 - 7. Life Safety Section of Bureau of Development Services
- F. Correspondence:
 - 1. No correspondence received.
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Refund Request Form – LUS Fee Reduction.

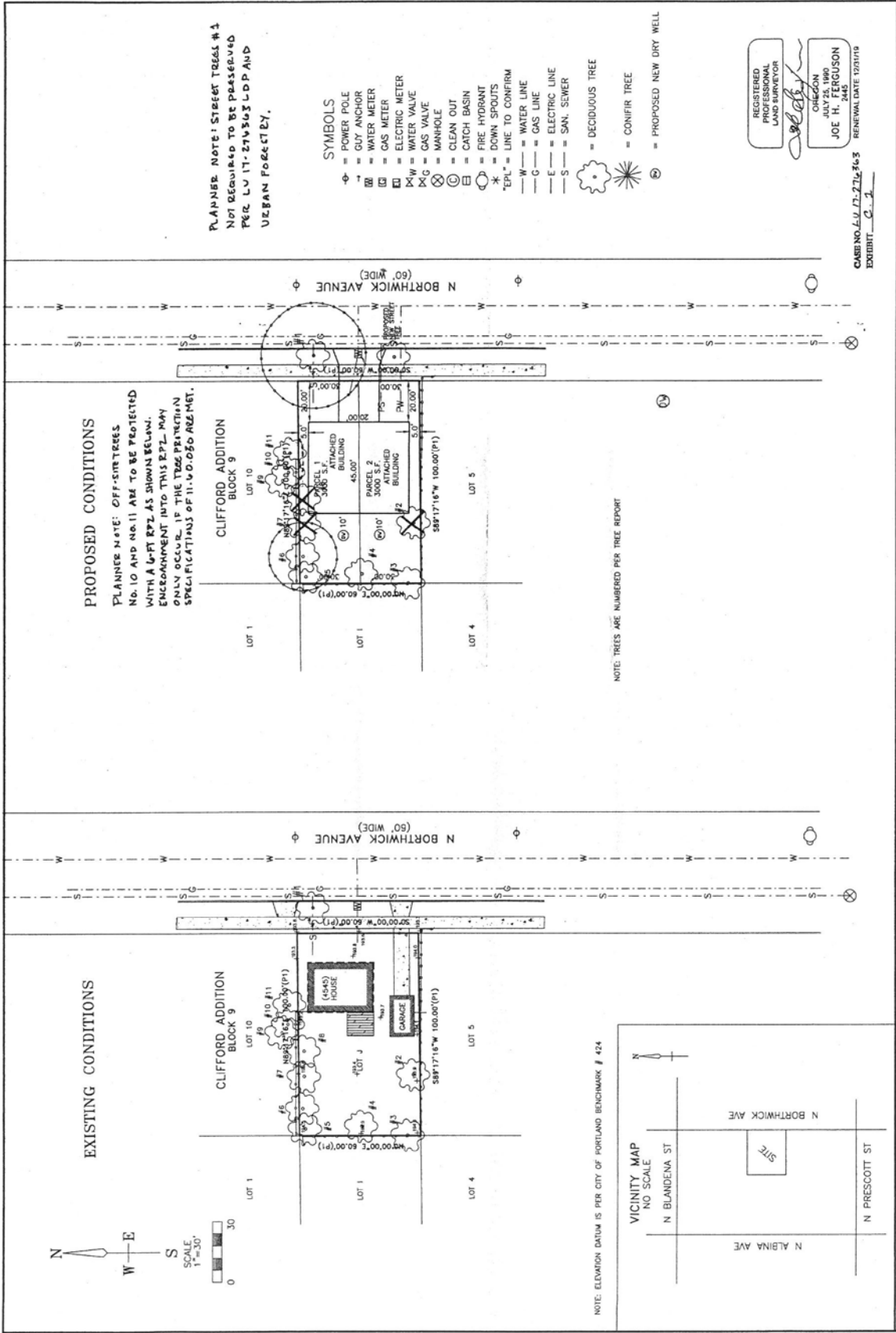
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING  NORTH

-  Site
-  Historic Landmark

File No.	LU 17-276363 LDP
1/4 Section	2529
Scale	1 inch = 200 feet
State ID	1N1E22BD 8700
Exhibit	B Dec 04, 2017



EXISTING CONDITIONS

PLANNER NOTE: OFF-STREET TREES NO. 10 AND NO. 11 ARE TO BE PROTECTED WITH A 6-FT EPZ AS SHOWN BELOW. ENCROACHMENT INTO THIS EPZ MAY ONLY OCCUR IF THE TREE PROTECTION SPECIFICATIONS OF 11-6-D-050 ARE MET.

PROPOSED CONDITIONS

PLANNER NOTE: STREET TRESS #1 NOT REQUIRED TO BE PRESERVED PER LU 17-276363 LDP AND URBAN FORESTRY.

SYMBOLS

- ⊕ = POWER POLE
- ⊕ = GUY ANCHOR
- ⊕ = WATER METER
- ⊕ = GAS METER
- ⊕ = ELECTRIC METER
- ⊕ = WATER VALVE
- ⊕ = GAS VALVE
- ⊕ = MANHOLE
- ⊕ = CLEAN OUT
- ⊕ = CATCH BASIN
- ⊕ = FIRE HYDRANT
- ⊕ = DOWN SPOUTS
- ⊕ = WATER LINE
- ⊕ = GAS LINE
- ⊕ = ELECTRIC LINE
- ⊕ = SAN. SEWER
- ⊕ = DECIDUOUS TREE
- ⊕ = CONIFER TREE
- ⊕ = PROPOSED NEW DRY WELL

REGISTERED PROFESSIONAL LAND SURVEYOR
 JOE H. FERGUSON
 JULY 25, 1990
 OREGON
 EXPIRES 7/25/2020
 RENEWAL DATE 10/15/19

CASE NO. LU 17-276363
 EXHIBIT C.1

<p>SITE PLAN LOT 1, "CLIFFORD ADDITION" SITUATED IN THE NW 1/4, SECTION 22, T.1N., R.1E., W.4M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON</p>	<p>CLIENT: DEZ DEVELOPMENT 10111 SE ZIMMUR SUITE F1123 CLACKAMAS OR 97015</p>	<p>DATE: AUGUST 25, 2016 JOB NO. 16-107 DRAFTED 8.25.16</p>
	<p>REVISED 10/25/2017 REVISED 12/28/2017</p>	<p>SHEET 1 OF 1</p>

LU 17-276363 LDP