



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

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Date: November 13, 2018
To: Interested Person
From: JP McNeil, 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 18-196727 LDP

GENERAL INFORMATION

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

Owner: Peter Perrin | Heyburn LLC
PO Box 69506 | Portland, OR 97282

Site Address: 4849 SE 63RD AVE

Legal Description: BLOCK 2 LOT 8 S 1/2 OF LOT 9, ARLETA PK 3
Tax Account No.: R036900240
State ID No.: 1S2E17BB 12200
Quarter Section: 3537
Neighborhood: Mt. Scott-Arleta, contact Andrew Cecka at msanalandusechair@gmail.com

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R2.5a – Residential 2,500 with the ‘a’ Alternative Design Density Overlay

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

Proposal:

The applicant is proposing to divide this 6,000 square foot lot into two smaller parcels of 3,000 square feet each. The existing house and shed on the site would be removed and the proposed lots would be made available for new development. On-site parking will be provided with parking pads accessed from the alley. There are no regulated trees on the site to be preserved. The applicant has proposed measures to protect a 40-inch deodar cedar tree on the adjacent property to the north.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create two units of land (two 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 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 located midblock on a residential street comprised of single dwelling homes of one to two stories. The surrounding blocks are similarly developed with homes of varying vintages, from the turn of the 20th century to more recent infill. The SE Foster commercial district is located several blocks to the northeast of the site.

Infrastructure:

Streets – The site has approximately 60 feet of frontage on SE 63rd Avenue. There is no driveway or curb cut from the street that serves the existing house on the site. At this location, SE 63rd Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 750 feet from the site at SE Foster Road via Bus 14.

SE 63rd Avenue has a 28-foot curb-to-curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 60-foot wide site frontage the pedestrian corridor includes a 4-foot wide planter area, curb, 6-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (4-6-1 configuration). There is also a 10-foot wide unimproved alley along the west (rear) boundary of the site.

Water Service – There is an existing 8-inch CI water main in SE 63rd Avenue. The existing house is served by a 5/8-inch metered service from this main.

Sanitary Service - There is an existing 8-inch VSP public combination sewer line in SE 63rd 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 “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 **August 27, 2018**. Six written responses have been received from the Neighborhood Association and notified property owners in response to the proposal. The concerns raised are summarized and addressed by staff below.

- Tree Protection: Several comments were received regarding the 40-inch deodar cedar located on the adjacent property (approximately 8 feet from the north property line). There were concerns that use of an existing wooden fence, located on the subject property 10 feet from the tree, for tree protection fencing would be inadequate. To address this, the neighbors requested an expansion of the root protection zone (RPZ), installation of fencing around the expanded RPZ, mulching of the RPZ, and shifting the footprint of the proposed house to the south and outside of the RPZ.

Staff Response: The applicant submitted an arborist report with the application addressing the tree on the neighboring property, which stated that use of the existing wooden fence would be adequate for tree protection purposes and that excavation conducted south of the fence line showed that there were no significant roots extending beyond the fence (Exhibit A.2). The neighbors responded with an independent arborist report that, while not fully disagreeing with the assessment of the applicant's arborist, nonetheless recommended additional tree protection measures (Exhibit F.2). Staff forwarded these comments and the second opinion of the neighbor's arborist to the applicant, who responded that they are amenable to the recommendations for an expanded RPZ, additional fencing, and mulching the RPZ. The applicant maintains that shifting the proposed building footprints entirely outside of the RPZ would essentially preclude development on Parcel 1, and therefore did not agree to shifting the building footprint.

Staff finds that, based on the opinions of both the applicant's and the neighbor's arborists, development on Parcel 1, subject to the additional protection measures discussed above, can be conducted in a manner that will minimize impacts on the deodar cedar on the neighboring property such that the tree will not experience significant harm. Tree protection is discussed further under Approval Criterion G – Clearing and Grading.

- Request to re-notice the proposal: A neighbor and the Mt. Scott – Arleta Neighborhood Association Land Use Chair requested that the proposal be re-noticed because the deodar cedar discussed above was misidentified as a pine tree on the site plan sent out with the notice.

Staff Response: The tree was misidentified on the site plan submitted and sent out; however, the existing conditions survey and arborist report correctly identified the tree. Staff did not find that the misidentification of the tree to have any substantive impact on the evaluation of the proposal and it was not re-noticed.

- Infill Development: A neighbor objected to the proposal to tear down the existing house and replace it with two dwellings.

Staff Response: This proposal is evaluated against the approval criteria for Land Divisions in the R2.5 zone. The applicant is proposing to divide a 6,000 square foot lot into two new lots of 3,000 square feet. The Zoning Code intends for lots that average 2,500 square feet in the R2.5 zone, and therefore the proposal meets the intended density of dwelling units for that zone. The 30-foot wide lots are narrower than the 36-foot wide standard lot width in the R2.5 zone; however, narrower lots are allowed provided the new lots meet certain criteria. Staff evaluated this proposal against those criteria and found that they met the requirements. This is discussed further below under Approval Criterion A - Lots.

- Parking: A neighbor expressed concern that the proposal would create on-street parking problems by increasing the demand for parking.

Staff Response: This proposal is required to provide one off-street parking space on each proposed lot, and, because the proposal is for narrow lots and there is an alley present, the parking must be accessed from the alley rather than from the street. The applicant will be required to improve the alley to provide access to the parking pads on the rear of the

site. Presently, there is no off-street parking on the site. The proposal will result in the addition of two more parking off-street spaces than is currently available, and, because access to that parking must be from the alley, there will be no curb cuts along the street frontage of the site, meaning the existing on-street parking will be preserved.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 THE Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation (on-site)	No trees in excess of 6 inches in diameter are located fully or partially on the site.
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, Seeps and Wetlands	No streams, springs, seeps or wetlands 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.
	33.655 - School District	The proposal is for less than 11 lots or is not in

Enrollment Capacity	the David Douglas School District.
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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. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of two units and a minimum required density of one unit. The applicant is proposing two single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R2.5 Zone	1,600	NA	36	40	30
Parcel/ Lot 1	3,000		30	100	30
Parcel/ Lot 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

Parcels 1 and 2 are proposed to be 30 feet wide — narrower than the minimum width for the R2.5 zone, as shown in the table above. The Zoning Code, however, allows narrower lots if the future development can meet the regulations of Section 33.611.200.C.

On balance, the proposed lots will have dimensions that are consistent with the purpose of this section.

The purpose of lot dimension regulations 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; (9) lots are compatible with existing lots while also considering the purpose of this chapter; and (10) lots are regularly shaped.

The applicant has demonstrated that proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements and is oriented towards the street. Therefore, they have demonstrated that the proposed parcels can accommodate a reasonably sized house while meeting the development standards of the zoning code.
- The applicant has provided a preliminary utility plan that 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.
- The proposed narrow lots are compatible with existing lots because the originally platted lot pattern for this area was for 40-foot wide lots and many of the nearby lots continue to fit this pattern. The 30-foot proposed lots do not vary greatly from that pattern. Additionally, there are other narrow lots in the immediate vicinity, including a recently confirmed lot located several properties to the north of the site.
- The lots are regularly shaped.

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

- The lots are proposed to be developed with detached houses and the proposed parcels are over 25 feet wide.

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

- The site abuts an improved alley, 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, the applicant will be required to provide vehicle access to the parcels from the alley to the rear. There will be no garages along the street-facing facades of the proposed houses.

60 percent landscaping requirement for attached houses

- The applicant has indicated that the lots will be developed with detached houses; therefore, this requirement does not apply.

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.

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

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

Findings:

Clearing and Grading

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable.

Though there are no regulated trees on the site, there is a 40-inch deodar cedar tree located on an adjacent site approximately 8 feet from the north property line of this site that could be impacted by site preparation and development on Parcel 1. The applicant provided an arborist report and tree preservation plan per Section 33.730.060.D.1.e that proposed using the existing wood fence located approximately 2 feet south of the northern property line as

tree protection fencing (Exhibit A.2). The arborist report also provided documentation that no significant roots from the cedar tree extend beyond the fence onto the subject property. The owners of the neighboring property responded with concerns that future development on the site would negatively impact the health of the tree on their property and included a statement from another arborist with additional tree protection measures (Exhibit F.2). This information was forwarded on to the applicant and the applicant's arborist, who concurred with some of the recommendations and agreed to the following additional tree protection measures that will be put into place at the time of development of Parcel 1: installing a six-foot high tree protection fence along the arborist approved RPZ, placing 2-4 inches of mulch within the RPZ, and having an arborist on site during excavation of Parcel 1. Taken together, these measures will minimize impacts on the deodar cedar on the adjacent site.

With the noted tree preservation conditions applicable at the time of development, 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. 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, cesspool decommissioning, 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 safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. 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 addressing the transportation approval criteria above. The applicant proposes to demolish the existing home and divide the property into two 30-ft wide lots. The proposed partition is projected to generate approximately 10 trips for each lot. The small number of trips added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections. The applicant's narrative indicates the surrounding area's street capacity satisfies the City's standard for capacity and will pose a minimal impact to immediate and adjacent neighborhoods. Vehicle access for the two proposed homes will be via the existing alley behind (west) of the subject lots, which minimizes impacts to on-street parking and loading. The existing sidewalk corridor and street provide sufficient transportation facilities to reduce impacts to the neighborhood and provide safety for all modes, including transit service for Tri-Met bus lines #14-Hawthorne and #10-Harold, and numerous bicycling routes within 0.5 mile from the subject property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area. The proposed development will not negatively impact transit service or safety for any mode.

PBOT has reviewed and concurs with the information supplied and the 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 2 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 2 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>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:</p> <p>Public Street Improvements: PBOT has indicated that the sidewalk corridor is improved to a level that can adequately serve pedestrian traffic and therefore no improvements are required. Alley improvements are required to provide access to the parking on the rear of the property; however, BES states that the size of the required improvements falls under the threshold that would trigger a stormwater assessment.</p> <p>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>
<p>33.654.110.B.1 Through streets and pedestrian connections</p>
<p>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.</p> <p>The block on which the subject property is located does not meet the noted spacing requirements; however, the properties adjacent to the site to the west where a street or pedestrian connection would connect are already developed and not configured in a manner that would easily allow the extension of a street or pedestrian connection at the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide one in this land division.</p> <p>In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.</p> <p>For the reasons described above, this criterion is met.</p>
<p>33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment</p>
<p>Portland Transportation has indicated that the existing street is currently improved in a manner that is sufficient to serve the expected users. To meet parking requirements of Chapter 33.266 and the narrow lot requirements for Land Divisions in the R2.5 zone (33.611.200.C) the applicant is required to provide parking on site that is accessed by the existing alley to the rear. PBOT requires improvements to the alley that include concrete paving of the first 25 feet of the alley entrance from the street right-of-way and compacted grade/gravel for the length of the alley up to the access point onto the site. In order to provide a 20-foot wide maneuvering space in the alley, any proposed garage or parking pad on the site must be setback from the rear property line a minimum of 10-feet. Alley improvements and parking setback and maneuvering are required as conditions of building permit approval.</p>

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

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent rights-of-way 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; and
 - Garages can be no wider than 50% of the width of the front façade of the house, 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.

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 the 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.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a two-parcel partition as shown on the attached preliminary plan (Exhibit C.3). 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 lots
- Alley access improvements and vehicle maneuvering space
- Tree protection for the tree on the neighboring property
- Demolition of the existing house
- Cesspool decommissioning
- Fire Bureau requirements

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 two narrow lots, as illustrated with Exhibit C.3, subject to the following conditions:

A. 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. A finalized permit must be obtained for demolition of the existing residence on the site, decommissioning the cesspool, 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 the 40-inch deodar cedar located on the adjacent site to the north and the root protection zone for that tree as shown on Exhibit C.3 and described in the application's arborist report addendum (Exhibit A.3). All demolition work must be in conformance with the recommendations in the applicant's arborist report.

B. 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 Arborist Report (Exhibits A.2 and A.3). Specifically, at the time of construction, tree protection measures for the 40-inch deodar cedar on the property to the north must be in place. These measures include tree protection fencing along the root protection zone of the tree to be installed per the specifications of the applicant's arborist. This fence must, at minimum, match the existing fence on Parcel 1 that is located 10 feet from the tree trunk. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Mulch of 2-4 inches in depth must be placed within the RPZ of the tree within the tree protection fencing. The applicant's arborist must also be on site during excavation within 15 feet of the noted tree.
3. The applicant shall meet requirements of the City Engineer for right of way improvements within the abutting public alley. The applicant shall submit an application for a permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation for required alley improvements.
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. Vehicular access to Parcels 1 and 2 must be from the abutting public alley. Curb cuts are not permitted from SE 63rd Avenue. Maneuvering space for the onsite parking must be provided to the satisfaction of the Portland Bureau of Transportation.

Staff Planner: Jason P. McNeil

Decision rendered by:  **on November 8, 2018**

By authority of the Director of the Bureau of Development Services

Decision mailed November 13, 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 July 2, 2018 and was determined to be complete on August 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 July 2, 2018.

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: December 14, 2018.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Submittal
 - 1. Applicant Narrative
 - 2. Arborist Report
 - 3. Arborist Report Addendum 9/27/18
 - 4. Stormwater Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Map
 - 2. Preliminary Partition Plat Map
 - 3. Site Plan 8/16/18 (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

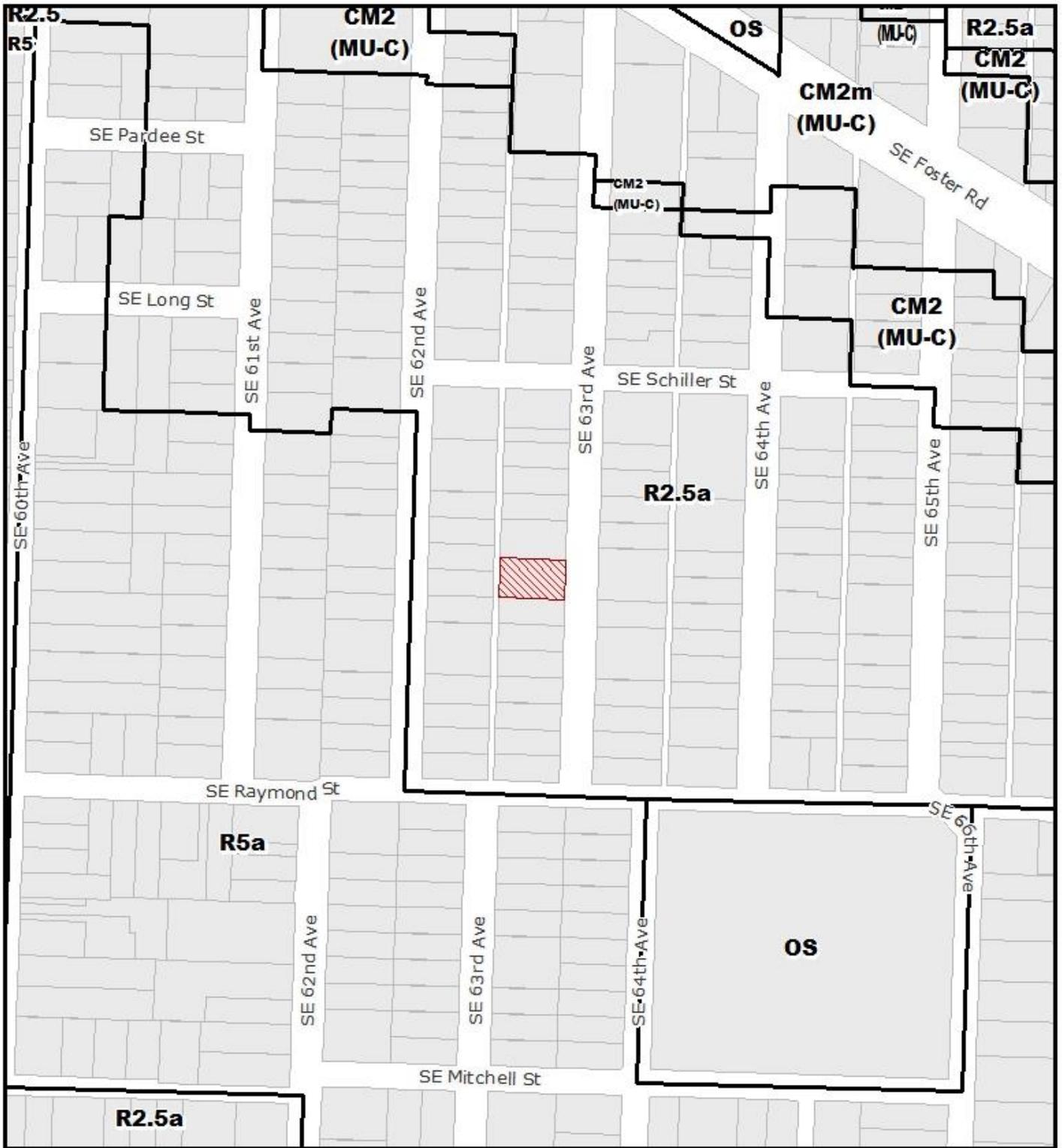
F. Correspondence:

1. Meg McHutchison and JC Schlechter, 9/7/18, concerns regarding protection for tree on their property
2. Michael Pardew (arborist hired by neighbors), 9/21/18, tree protection recommendations
3. Meg McHutchison and JC Schlechter, 9/24/18, recommended additional tree protections
4. Lenore Ooyevaar, 9/25/18, concerns regarding tree protection
5. Cindy Zielinski, 9/25/18, concerns regarding tree protection
6. Jacob Brostoff, Mt Scott/Arleta NA Land Use Chair, 9/26/18, concerns regarding tree protection and recommended additional protection measures
7. Summer Ashley, 9/26/18, concerns regarding tree protection and infill development=
8. Kevin Partain, 9/28/18, response to tree protection requests

G. Other:

1. Original LU Application
2. Expedited Land Division Acknowledgement Form
3. Incomplete Letter

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 18-196727 LDP
1/4 Section	3537
Scale	1 inch = 200 feet
State ID	1S2E17BB 12200
Exhibit	B Jul 09, 2018

