



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

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Date: March 12, 2019
To: Interested Person
From: Brandon Rogers, Land Use Services
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NOTICE OF A TYPE IIx 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 18-194689 LDP AD

Applicant: Tony Ryan | Weddle Surveying
6950 SW Hampton St #170 | Tigard OR, 97223
tony@weddlesurveying.com | (503) 961-9585

Owner: Bryan D Scott
2624 SE Division St | Portland, OR 97202-1253

Site Address: 2848 NE Everett St
Legal Description: BLOCK 16 LOT 6, HAWTHORNES 1ST ADD
Tax Account No.: R367801810
State ID No.: 1N1E36CB 01600
Quarter Section: 3033
Neighborhood: Kerns, contact Elliott Mantell at commonchiro@yahoo.com
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Zoning: Residential 2,500 (R2.5)
Case Type: Land Division Partition (LDP) with an Adjustment (AD).
Procedure: Type IIx, an administrative decision with appeal to the Hearings Officer.

Proposal: The applicant proposes a partition of a 5,009 square-foot site to create two parcels for development of detached houses. Parcel 1 is proposed to be 3,208 square feet in area and contains the existing house, which is proposed to remain. Parcel 2 is proposed to be 1,801 square feet in area. Sanitary sewer and water are proposed to be provided by existing utilities located in NE Everett Street and NE 29th Avenue. Stormwater will be managed by on-site drywell and downspouts. A concurrent Adjustment review is requested to reduce the required off-street parking for the existing house on Parcel 1 from one required off street parking space to zero off street parking spaces. Driveway access for Parcel 2 is proposed from NE 29th Avenue.

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent Adjustment review is required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land. Therefore, this land division is considered a partition.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones and Section 33.805.040 Adjustment Approval Criteria.**

FACTS

Site and Vicinity: The site is characterized by an existing single-family residence, which is proposed to remain, and a detached garage, which is proposed to be removed from the site. Topography is level, with a change in elevation of three feet across the site, which is elevated slightly above the adjoining sidewalk. The surrounding neighborhood is characterized by primarily single-dwelling development to the east (Laurelhurst Neighborhood) and a mix of single-dwelling, multi-dwelling, commercial and employment development to the north, south and west of the site. Commercial development along NE 28th Avenue connects commercial developments along NE Sandy, NE Glisan Street and E Burnside Street. The street grid is well developed, including sidewalks and 300-foot by 200-foot blocks are predominate in the area east of NE 28th Avenue.

Infrastructure:

- **Streets** – The corner lot site has 50-feet of frontage on NE Everett Street and 100-feet of frontage on NE 29th Avenue. There is one driveway entering the site on NE 29th Avenue that serves the existing garage on the site. At this location, the City’s Transportation System Plan (TSP) classifies both NE Everett Street and NE 29th Avenue as Local Service streets. Tri-Met provides transit service 600-feet south of the site at E Burnside street via Bus Route 20, and 500-feet north of the site at NE Glisan Street via Bus Route 19. At this location, both frontages are improved with a 28-ft paved roadway within a 60-ft right of way with an existing pedestrian corridor in an 8-6-2 configuration.
- **Water Service** – There is an existing 6-inch water main in NE Everett Street and a 6-inch water main in NE 29th Avenue. The existing house is served by a 5/8-inch metered service from the main in NE Everett Street.
- **Sanitary Service** - There is an existing 12-inch public combination sewer line in NE Everett Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: Residential 2,500 (R2.5). 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.

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 8, 2019**. One written response has been received from a notified property owner in response to the proposal (Exhibit F.1). No response was received from the Kerns Neighborhood or the Southeast Uplift Neighborhood Coalition.

Neighbors' Letter: The neighbor expresses concerns regarding neighborhood vehicle parking. The letter states there is not adequate parking in the neighborhood, and expresses concerns with parking demands from the neighborhood businesses located along NE 28th Avenue.

Staff Response: Note that the proposed house on Parcel 2 will be required to provide one off-street parking space at the time of development. The applicant states that the garage currently serving the existing house has not been used for off-street parking for approximately 16-years, and that on -street parking has been used for the existing house during that time frame. The applicant has provided an on-street parking analysis, which indicates that the neighborhood has adequate on-street parking during peak periods (Exhibit A.2). Please refer to Section K *Transportation Impacts* and the Adjustment findings below for a detailed review of neighborhood parking and the proposed Adjustment to the off-street parking standard.

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	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	Maintaining existing development on the site limits new parcel configuration (33.610.200 supersedes 33.639).
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	No public dead-end streets or pedestrian

	public dead-end streets and pedestrian connections	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 Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

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 5,009 square feet. The maximum density in the R2.5 zone is calculated at 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. Therefore, the site has a maximum density of 2 units and a minimum required density of 1 unit. The applicant is proposing two single dwelling parcels. The density standards are therefore met. The required and proposed lot dimensions are shown in the following table:

	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	3,208		50	100	50
Parcel 2	1,801		36	50	36

* 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.

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

The site is situated a few feet above the adjacent sidewalk grade, site topography is primarily level, no tree protection is required, and the site 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. 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 Site Development section of BDS has responded that sanitary sewer was available when the house was originally constructed and has expressed no concerns with the proposed partition (Exhibit E.5). As discussed in the Development Standards section below, the applicant must obtain a permit to demolish the existing garage to make Parcel 2 suitable for development. With a condition of approval requiring the garage to be removed, there are no anticipated land

suitability issues and the new lots can be considered suitable for new development. 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. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

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 and a transportation study prepared by Lancaster Engineering (Exhibit A.2). Parcel 1 will retain the existing home, and the applicant has requested an Adjustment to eliminate the off-street parking requirement (addressed in the Adjustment findings below). Parcel 2 will have a new single-family home with vehicle parking accommodated on-site. The applicant's findings note that the new home will add approximately 10 trips daily to the transportation system, which will not adversely impact the operations of area intersections. The applicant's narrative indicates the surrounding area's street capacity satisfies City standards and will pose a minimal impact to immediate and adjacent neighborhoods. With the proposal, approximately 120 feet of uninterrupted curb directly abutting the parent property will remain for on-street parking. Tri-Met Bus Route #19-Woodstock/Glisan Street and Bus Route #20-E Burnside Street are located within a quarter mile of the site. The subject site and surrounding areas are well connected with continuous sidewalks throughout the neighborhood, along with a complete grid pattern which provides bicycle connections to other parts of the city. NE 28th Avenue, NE 30th Avenue, and NE Glisan Street are identified City bikeways. 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.

To address parking and other transportation impacts, the applicant submitted a transportation study prepared by Lancaster Engineering (Exhibit A.2). All transportation approval criteria per 33.641.020 were analyzed and satisfied. The on-street parking occupancy for this area was also studied in 18-200921 TR for a project at 2926 NE Flanders Street, resulting in a conclusion that the on-street parking occupancy was slightly higher for the same streets studied for this site, but still below 85% occupied.

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:

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 Exhibit E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods: <ul style="list-style-type: none"> • Parcel 2: Stormwater from Parcel 2 will be directed to a drywell that will treat the water and slowly infiltrate it into the ground. Parcel 2 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 drywell. • Parcel 1: The existing house has downspouts that drain onto the ground. BES has indicated that basic setback standards are met for the existing downspouts.
The Stormwater Management criteria and standards are verified.
33.654.110.B.1 Through streets and pedestrian connections
Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. The block on which the subject property is located meets the noted spacing requirements. This criterion is met.
33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment
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. Portland Transportation has indicated that the existing street is currently improved in a manner that is sufficient to serve the expected users. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided. This criterion is met.
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.

ADJUSTMENT

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The regulation proposed to be adjusted is 33.266.110 *Minimum Required Parking Spaces*. The purpose statement at 33.266.110.A states: *The purpose of required parking spaces is to provide enough off-street parking to accommodate the majority of traffic generated by the range of uses which might locate at the site over time. Sites that are located in close proximity to transit, have good street connectivity, and good pedestrian facilities may need little or no off-street parking. Parking requirements should be balanced with an active pedestrian network to minimize pedestrian, bicycle and vehicle conflicts as much as possible. Transit-supportive plazas and bicycle parking may be substituted for some required parking on a site to encourage transit use and bicycling by employees and visitors to the site. The required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis. Provision of carpool parking, and locating it close to the building entrance, will encourage carpool use.*

The applicant addresses the findings in Attachments A.1 and A.2, noting that the site is located within 560-feet of bus routes at NE Glisan Street and 790-feet at E Burnside Street. According to City GIS information, the shortest straight-line distance from the site to NE Glisan Street is 508 feet and from the site to E Burnside Street is 620 feet. Although the site is not located within close proximity (defined by the zoning code as 500-feet or less) to a transit street with 20-minute peak-hour service, the site is located only 508-feet from NE Glisan Street, a transit street with peak-hour service. Additionally, NE Glisan Street is classified as a Major City Bikeway, which provides additional opportunities for transit by bicycle.

PBOT notes (Exhibit E.2) that the site has 120-feet of uninterrupted curb, which will remain for on-street parking. Elimination of a required curb cut for a new driveway at Parcel 1 will provide for additional on-street parking opportunities. The site and neighborhood have continuous sidewalks and a complete grid pattern, which provides pedestrian and bicycle transportation opportunities. The applicant has provided a Technical Memorandum prepared by Lancaster Engineering regarding traffic impacts and on-street parking impacts (Exhibit A.2). The memorandum states that the total parking demand for the project is four vehicles during peak periods. The report concludes that an estimated parking supply of 249 vehicles was calculated within the study area, with a peak demand of 88 on-street parking spaces, resulting in an available supply of 161 on-street parking spaces during peak demand periods. PBOT concurs with the results of Lancaster Engineering's memorandum.

Based upon this information and given the site's close proximity to transit, good street connectivity and pedestrian facilities, the proposal will be consistent with the purpose of the parking regulations. This criterion is met.

- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The site is located within a residential zone. The applicant's narrative (Exhibit A.1) states that several parcels on the same and adjacent blocks do not have off-street parking. Additionally, the applicant states that the existing garage serving the existing house has not been used for off-street parking in 16-years of their ownership, because the garage is too small to fit a car. The existing conditions plan (Exhibit C.3) illustrates that there is no space between the street and the existing garage here a vehicle could park off street. The requested Adjustment proposes to eliminate the requirement for the existing house on Parcel 1 to provide an off-street parking area.

Granting the Adjustment would not detract from the livability or appearance of the residential area because the resulting Adjustment would not significantly change the existing conditions. Parcel 1 will have over 120 feet of curb length where parking can be accommodated within the public right of way, and large, existing street trees can be retained since no curb cut will be needed for Parcel 1. Additionally, the proposed house on Parcel 2 will be subject to the parking requirements at the time of development. As noted above in Criterion A, the neighborhood contains adequate off-street parking to serve Parcel 2. Based upon these facts, the proposal will not significantly detract from the livability or appearance of the residential area. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: One Adjustment is requested; therefore, this criterion is not applicable.

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: The site does not contain scenic or historic resources; therefore, this criterion is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: Discussed above in Criterion A, the surrounding neighborhood contains adequate on-street parking to serve the existing house on Parcel 1 as well as the other existing uses in the area. There are no other discernable impacts resulting from the proposed Adjustment. This criterion is met.

- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable; or

Findings: The site does not contain environmental zoning; therefore, this criterion is not applicable.

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.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an

approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 5.5 feet from the new property line, with eaves located 4-feet from the new property line. Therefore, the required setbacks will be met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.

- **Accessory Structures** – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on proposed Parcel 2 must be removed prior to final plat. The applicant must provide documentation prior to final plat approval that the required demolition permits have received final inspection approval. Alternatively, the applicant may choose to execute a covenant with the City to retain the accessory structure for up to two years without a primary structure. The covenant must meet the requirements of 33.700.600 and be executed prior to or with the Final Plat.

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 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

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

CONCLUSIONS

The applicant has proposed an Adjustment to the off-street parking standards and a two-parcel partition as shown on the attached Preliminary Land Division Plan (Exhibit C.1), and the Partition Plat Survey (Exhibit C.2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified

with this proposal are: off-street parking and maintaining required building setbacks for the house to remain at the site. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of an Adjustment to 33.266.110 *Minimum Required Parking Spaces* to reduce the minimum required parking space for the existing house to remain on Parcel 1 from one required off-street parking space to zero off-street parking spaces, and;

Approval of a Preliminary Plan for a two-parcel partition that will result in two standard parcels for detached homes, illustrated with Exhibits C.1 and C.2, subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for review and approval by the Land Use Review section of BDS. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - Any other information specifically noted in the conditions listed below.

B. The 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 garage on proposed Parcel 2. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.

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

1. 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: Brandon Rogers

Decision rendered by:  **on March 8, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed March 12, 2019

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 June 28, 2018 and was determined to be complete on December 21, 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 June 28, 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: April 20, 2019.**

Note: 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.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 26, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 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.ci.portland.or.us

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at

775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

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.**

Recording concurrent approvals.

If the preliminary land division approval also contains approval of other land use decisions (examples include adjustments, conditional uses, and environmental reviews), these other approvals will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **March 26, 2019** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of a concurrent Adjustment review. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment. This approval expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

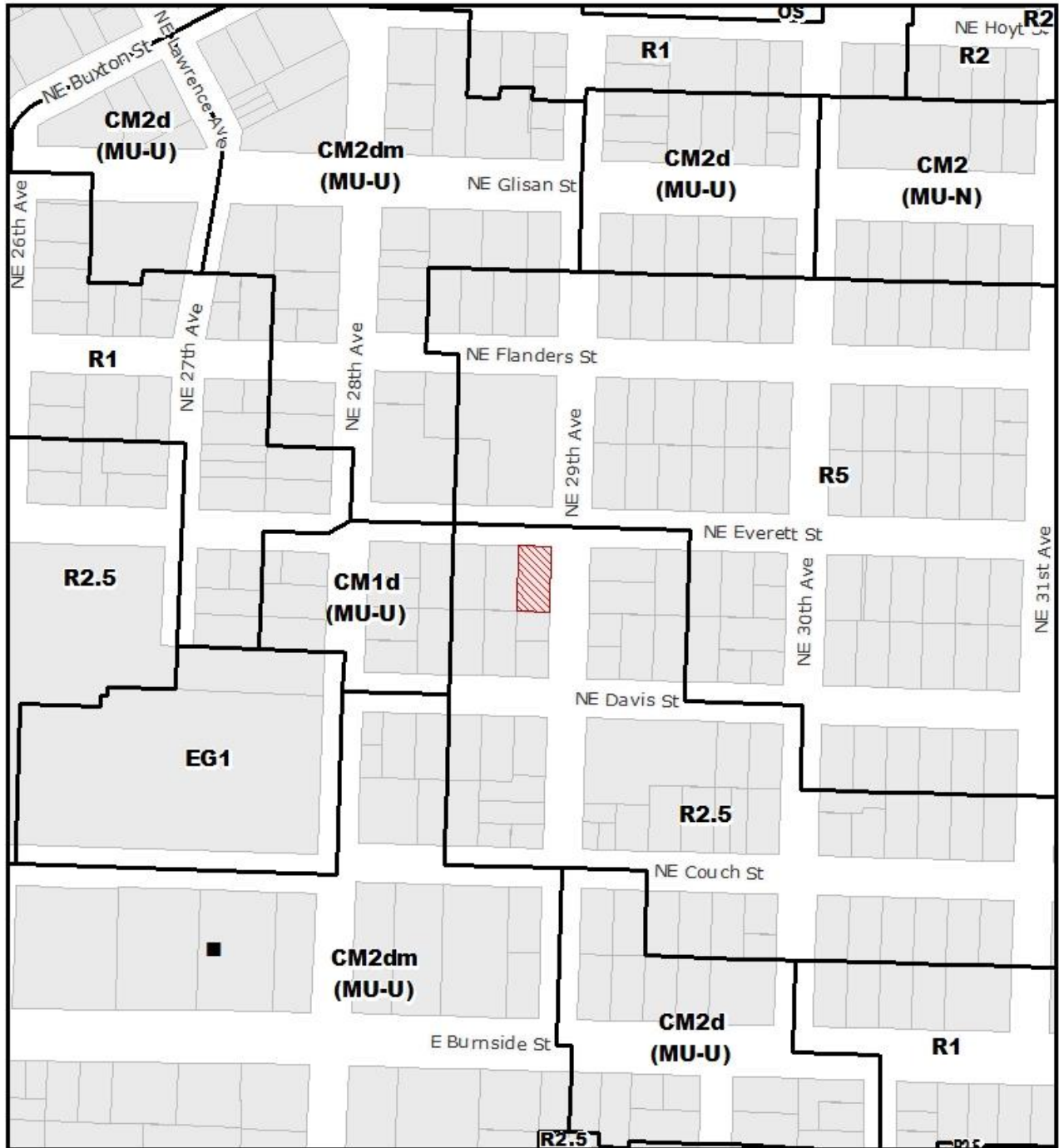
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative/Original Submittal
 - 2. Traffic Impact Statement/Technical Memorandum, Lancaster Engineering (November 29, 2018)
 - 3. Adjustment Approval Criteria Narrative (December 21, 2018)
 - 4. Simplified Approach Stormwater Form
 - 5. Arborist Report
 - 6. Letter from Applicant's Surveyor
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division Plan/Existing Conditions Survey (Revised February 22, 2019)
 - 2. Partition Plat Survey (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 (as revised)
- F. Correspondence:
 - 1. Dave Rand, January 17, 2019
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement Form
 - 3. Early Neighborhood Contact
 - 4. Completeness 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



Site



Historic Landmark

File No.	LU 18-194689 LDP AD
1/4 Section	3033
Scale	1 inch = 200 feet
State ID	1N1E36CB 1600
Exhibit	B Jul 05, 2018

