



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: 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 18-246864 LDP

Applicant: Sarah Radelet | Strata Land Use Planning
PO Box 90833, Portland, OR 97290
(503) 320-0273 | sarah@stratalanduse.com

Property Owner: Ngoc Nguyen
7531 SE Henderson St, Portland, OR 97206

Site Address: 5506 NE Hoyt Street

Legal Description: BLOCK 2 LOT 6 EXC PT IN HWY, AVALON
Tax Account No.: R045800180
State ID No.: 1N2E31AC 07600
Quarter Section: 2936

Neighborhood: North Tabor, contact Robert Jordan at landuse@northtabor.org
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R1 – Residential 1,000 square feet
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 a two-parcel partition on this 4,405 square foot site. Parcel 1 would be 2,792 square feet in size and contain the existing structure, a single dwelling with an accessory dwelling unit (ADU). Parcel 2 would be 1,613 square feet and would be available for future development. The maximum density (or number of dwellings allowed) on the entire site is four dwelling units. Parcel 2 could be developed with either a duplex or a single dwelling unit with an ADU.

The applicant proposes to remove the existing garage and driveway on the site and close the curb cut. Off-street parking is not required at this site due to its proximity to frequent bus service and MAX light rail. There is no sanitary sewer service in SE 55th adjacent to the site. Sewer service for Parcel 2 will be provided from a lateral that connects to the sanitary sewer main in NE Hoyt street within a 10-foot easement along the eastern portion of Parcel 1 (see attached site plan). The Portland Bureau of Transportation will require right-of-way

dedication and construction of an ADA ramp at the corner of NE Hoyt and NE 55th. There are no trees 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 (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 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 relatively flat and located at the corner NE 55th Avenue and NE Hoyt Street. It is currently occupied by a two-story single dwelling unit and with an interior accessory dwelling unit and a detached garage. Facing the site is the sound wall for I-84, located opposite NE Hoyt. The surrounding area is characterized by a mixture of uses and development types. Along NE Hoyt Street to the east, the area is characterized by single dwelling structures of similar size and vintage as the subject site. South of the site, along NE Glisan Street, is a mix of multi-dwelling developments, retail sales and service, and office uses, many of which are associated with Providence Medical Center, which is located just to west of the site.

Infrastructure:

- **Streets** – The site has approximately 90 feet of frontage on NE 55th Avenue and 50 feet of frontage on NE Hoyt Street. There is one driveway entering the site from NE 55th that serves the existing house on the site. At this location, NE 55th Avenue and NE Hoyt Street are classified as a Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 100 feet from the site at NE Glisan Street Avenue via Bus 19 and MAX Light Rail at the NE 60th Avenue Station, which is located approximately 1,225 feet away.

NE 55th Avenue has a 28-foot curb-to-curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 90-foot wide site frontage the pedestrian corridor includes a 2.5-foot wide planter area, curb, 6-foot sidewalk and a 2-foot wide buffer at the back of the sidewalk (2.5-6-4 configuration). NE Hoyt Street has a 26-foot curb-to-curb paved surface within a 255-foot right-of-way (including the I-84 right-of-way, which abuts NE Hoyt) with parking on the south side only. Along the 50-foot wide site frontage the pedestrian corridor includes a curb and a curb-tight sidewalk that varies in width from 4.5 feet to 6 feet.

- **Water Service** – There is an existing 8-inch CI water main in NE 55th Avenue and NE Hoyt Street. The existing house is served by a 5/8-inch metered service from the main in NE Hoyt.
- **Sanitary Service** - There is an existing 15-inch concrete public combination sewer line in NE Hoyt Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R1 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-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 **December 5, 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:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 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	No shared courts are proposed or required

	Courts	
	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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing two single-family or duplex parcels.

Single-dwelling or duplex development is proposed for some or all of the site, therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review.

Minimum density in the R1 zone is one unit per 2,000 square feet (for sites smaller than 10,000 square feet in area) and the maximum density is one unit per 1,000 square feet. The total site area shown on the applicant's survey is 4,517 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. Street dedication along NE Hoyt Street is required that totals approximately 112 square feet. Therefore, the resulting lot size for calculating density is 4,405 square feet. The site has a minimum required density of two units and a maximum density of four units.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid development on the site or further division of lots that would result in non-compliance with the overall density requirements of the site.

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

R1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Multi Dwelling	10,000	70	70	70
Attached Houses	none	15	none	15
Detached Houses	none	25	none	25
Duplexes	none	none	none	10
Parcel 1 – detached or duplex	2,792	50	53	50
Parcel 2 – detached or duplex	1,613	32	50	32

* Width is measured from the midpoints of opposite lot lines.

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.

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 24-inch sycamore maple tree located on an adjacent property approximately one foot from the east property line of this site, which could be impacted by site preparation and development on Parcel 2. The applicant provided an arborist report and tree preservation plan (Exhibit A.5) per Section 33.730.060.D.1.e. The report notes that sycamore maples have a moderate tolerance to construction impacts and that extra measures should be taken to protect roots that may be located in the footprint of the new dwelling on Parcel 2. Specifically, the area within 24-feet of the trunk of the tree that is not located within the footprint of the existing garage should be hand dug to identify any roots greater than four inches in diameter. Cutting these roots should be avoided. If possible, the new dwelling should be constructed on a post and beam structure to bridge any roots greater than four inches in diameter. If roots must be cut to allow for construction, the roots should be cut cleanly with a properly sharp saw. These measures will minimize any impacts on the sycamore maple tree on the adjacent site.

With the condition that the recommendations in the applicant's arborist report are followed 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 garage on Parcel 2 and redevelop that parcel. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of the structure on Parcel 2 prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easements are proposed and/or required for this land division:

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

"A Declaration of Maintenance agreement for a Private Sanitary Sewer Easement has been recorded as document no. _____, Multnomah County Deed Records."

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

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

Findings: The transportation system must be capable of 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; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.020.B.

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 proposed development will result in one additional dwelling. According to the ITE Trip Generation Manual, 9th Edition, one new single-family dwelling is expected to generate nearly ten trips per day, including nearly one additional trip during the morning peak hour and one additional trip during the evening peak hour. The proposed development is therefore expected to add minimal impacts, created by one additional dwelling, to the transportation system. Therefore, the proposed development is therefore not expected to significantly impact safety, street capacity, or level-of-service. The development site is located in an area with a gridded street pattern that provides sufficient connectivity. Additionally, the existing sidewalk corridor on NE 55th is to be retained; the applicant is required as a condition of Building Permit approval to close any curb cuts/driveways that do not provide access to a legal parking or loading space and reconstruct the curb/sidewalk. The proposed development is within close distance of several transit stops; approximately 0.1 mile from a MAX station locate at NE 60th, and 0.8 mile from a MAX station at NE 42nd, 0.3 miles from a bus stop for the #20 and approximately 700-ft walking distance from a bus stop for the #19. Sufficient access to transit service and facilities is provided. The site is less than 1,000 ft from NE Everett, a Major City Bikeway. The adjacent rights-of-way, NE Hoyt and NE 55th, are low volume and of low vehicle speeds; the roadway is sufficient to accommodate bicyclists. BDS specified that parking is not required in relation to the proposed development; the applicant elected not to retain on-site parking for the existing home. On-site parking is not proposed for either Parcel 1 or Parcel 2; as a condition of Building Permit approval for Parcel 2, the applicant is required to close the curb/cut driveway on NE 55th and reconstruct the curb and sidewalk at that location. Therefore, on-street parking will be increased on NE 55th and retained on NE Hoyt. There are no access restrictions to the proposed development site. The proposed development is expected to result in relatively few impacts to the transportation system, and few negative impacts on immediate and adjacent neighborhoods. The proposed development maintains the existing sidewalk corridor and street pattern; it does not adversely affect pedestrian, bicycle or transit circulation.

PBOT has reviewed and concurs with the information supplied and available evidence. With the required pedestrian corridor improvements (discussed in the following section) these criteria can be met.

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

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

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

There is no public sanitary sewer available in NE 55th Avenue. The applicant proposes to serve Parcel 2 via an easement over Parcel 1. BES has indicated this route of service is acceptable. The easement must be shown on the final plat. With this condition, the sanitary sewer service standards of 33.652 have been verified.

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

No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods

- **Public Street Improvements:** As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.
- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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 lot with the existing house):** The existing house has downspouts that drain to the ground.

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 site is situated at the corner of NE Hoyt Street and NE 55th Avenue and, therefore, would not be an appropriate location for a new through street or pedestrian connection.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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

NE 55th Avenue is improved with a paved roadway, curbs, planter strip, and sidewalks. NE Hoyt Street is improved with a paved roadway and a curb-tight sidewalk. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that sidewalk and ADA corner ramp improvements must be made in order to ensure that safe pedestrian travel is possible to and

from the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed earlier in this report, additional right-of-way must be dedicated along the frontage of the site. With those improvements, up to three additional dwellings can be safely served by these existing streets without having any significant impact on the level of service provided.

As part of this proposal, the existing on-site parking will be removed. As a condition of approval of the building permit for the new dwelling on Parcel 2, the existing curb cut along NE 55th must be closed, and any damaged portions of the sidewalk must be repaired or replaced.

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

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent 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:

- Detached Houses- Section 33.120.270.D of the Zoning Code allows reduced **side** setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**

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 R1 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 five feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the 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 Parcel 2 must be removed prior to final plat.
- Required Off-Street Parking - A paved parking pad and garage provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on a different lot and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus or streetcar, or within 1,500 feet of light rail service. Tri-Met provides transit service approximately 100 feet from the site on NE Glisan Street via bus number 19 and MAX Light Rail service is approximately 1,225 feet away at the NE 60th Avenue MAX station. As a result, no replacement parking is required for Parcel 1.

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 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.

- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 11.

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:

- Residential density in the R1 Zone
- Protection for a tree on the adjacent site to the east
- Demolition of the garage on Parcel 2
- Private sanitary sewer easement over Parcel 1 for the benefit of Parcel 2
- ROW improvements, dedication, and repair
- Street tree planting along the frontage of Parcel 1
- Fire Code 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 single dwelling or duplex lots as illustrated with Exhibit C.3, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review review and approval. 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;
- The reduced side setbacks allowed under 33.120.270.D, if proposed;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for NE Hoyt Street. The required right-of-way dedication must be shown on the final plat.
2. A private sanitary sewer easement, for the benefit of Parcel 2, shall be shown and labeled over the relevant portions of Parcel 1.
3. 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 C.5 below. The recording block shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for a Private Sewer Easement has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site’s street frontage. The applicant shall apply for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Utilities

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

Existing Development

3. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2.
4. During construction on Parcel 2, the applicant must meet the requirements of Urban Forestry to plant street trees in the planter strip on NE 55th Avenue and NE Hoyt Street adjacent to Parcel 1. The applicant must contact Urban Forestry at 503-823-TREE (8733) prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.

Required Legal Documents

5. A Maintenance Agreement shall be executed for the Private Sewer Easement described in Condition B.3 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

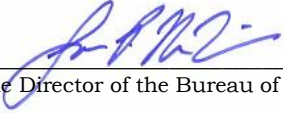
D. The following conditions are applicable to site preparation and the development of individual lots:

1. The minimum and maximum density for the lots in this land division are as follows:

Parcel	Minimum Density	Maximum Density
1	1	2
2	1	2

2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of Parcel 2 The applicant must construct improvements with development on the lot.
3. 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.
4. The recommendations of the applicant’s Arborist Report (Exhibit A.5) must be followed to protect the sycamore maple on the adjacent property to the east.

Staff Planner: Jason P. McNeil

Decision rendered by:  **on March 7, 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 October 2, 2018, and was determined to be complete on November 26, 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 October 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 March 26, 2019.**

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.

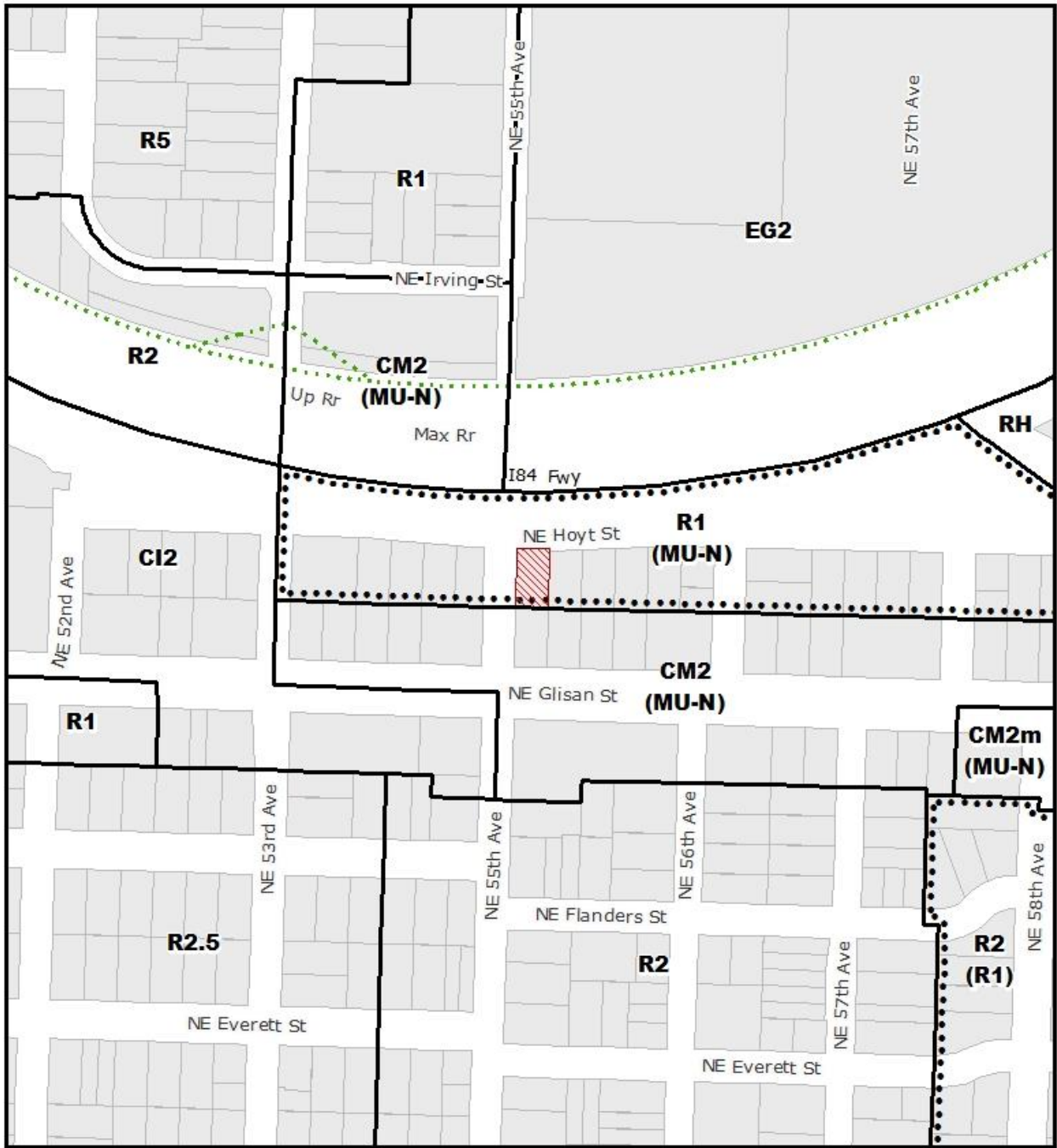
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Submittal
 - 1. Applicant Narrative
 - 2. Stormwater SIM Form
 - 3. Fire Hydrant Flow Information
 - 4. Revised Narrative
 - 5. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Original Site Plan
 - 3. Revised 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
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement Form
 - 3. Incomplete Letter and RFC Responses

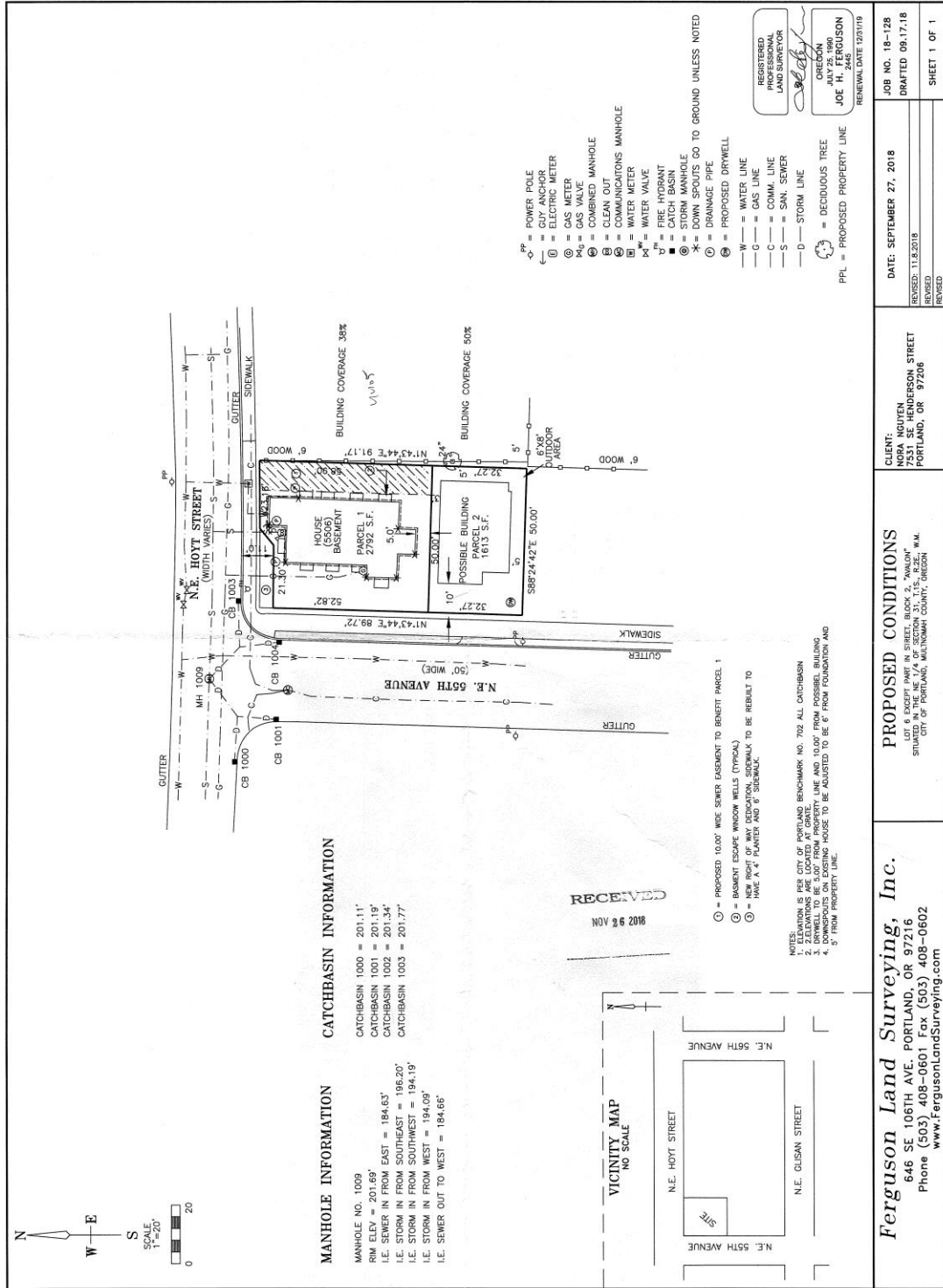
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
NORTH

 Site
 Recreational Trails

File No.	LU 18-246864 LDP
1/4 Section	2936
Scale	1 inch = 200 feet
State ID	1N2E31AC 7600
Exhibit	B Oct 04, 2018



CASE NO. LU 18-246864 LDP
 EXHIBIT C-3 (51-512c)