



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

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

Date: May 13, 2019
To: Interested Person
From: Lois Jennings, Land Use Services
503-823-2877 or lois.jennings@portlandoregon.gov

NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 18-270272 LDP

GENERAL INFORMATION

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

Owner: KIMCO Properties LTD
P.O. Box 1540 | Sandy, OR 97055
Phone#: 503-668-7075

Site Address: 3004 SE 62ND AVE

Legal Description: BLOCK 1 N 97' OF S 100' OF LOT 9&10, MERRILLS ADD; BLOCK 1 S 3' OF LOT 9&10, MERRILLS ADD

Tax Account No.: R563700340, R563700350
State ID No.: 1S2E08BC 07700, 1S2E08BC 07800
Quarter Section: 3337

Neighborhood: South Tabor, contact John Carr at jcarrpdx@gmail.com.
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.

Zoning: R5-Residential 5,000 with an "a"-Alternative Design 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 the existing 12,526 square foot lot into two parcels. Parcel 1 would be 7,483 s.f. in area and retain the existing house. Parcel 2 would be 4,392 s.f. in area for future development of a single-family house. The applicant's preliminary site and utility plan shows how services (sanitary, stormwater, water) will be

provided for each lot. An arborist report has been submitted and the applicant is proposing to preserve the Magnolia (#95) and the Pacific Madrone (#94) at the front of the Parcel. Portland Bureau of Transportation (PBOT) is requiring a 6.5 ft. street dedication along this site's frontage with reconstruction of the pedestrian corridor to be 11-ft.

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 relatively flat with an existing single-family residence and two story detached garage. Two driveways provide access to the site and a small portion of the neighbor's driveway vehicle area encroaches on to the southern portion of the site. There are three large trees within the front yard area. A chain link fence encloses the site. Single-family homes predominate with a mixture of ages, styles and scales. No parking is allowed on the west side of SE 62nd Avenue.

The surrounding neighborhood is entirely zoned R5a. Approximately 1100 feet to the south is SE Powell Boulevard where the zoning is a mixture of commercial & multifamily with a zoning designation of CE/CM2/R1. There is a mixture of apartments and commercial development within the vicinity of SE Powell Boulevard.

Infrastructure:

- **Streets** –The site has approximately 100 feet of frontage on SE 62nd Avenue. Two driveways enter the site. At this location, SE 62nd Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 1100 feet from south of the site on SE Powell Boulevard Avenue via Bus #9. On-street parking is only allowed on the east side of SE 62nd Avenue.

SE 62nd Avenue has a 23-ft. wide paved roadway within a 38.9-foot right-of-way with parking. Along this site frontage the pedestrian corridor includes a .5 curb, 4-foot sidewalk and a 1.5-foot wide buffer at the back of the sidewalk (.5-4-1.5 configuration).

- **Water Service** – There is an existing 12-inch CI water main in SE 62nd Avenue with a static water pressure range estimate of 62-78 psi. The existing house is served by a 5/8-inch metered service from this main.
- **Fire Hydrant Water Service**- The nearest fire hydrant is located at the NW corner adjacent to 3108 SE 62nd Avenue and the estimated to have a flow of 2,500 gpm with an estimated residual pressure of 20 psi.
- **Sanitary Service** - There is an existing public 12-inch PVC combined sewer in SE 62nd Avenue (BES as-built ##10383).

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: R5a - The R5 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 focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood.

Land Use History: City records indicate there is prior land use reviews for this site.

- **LU 07-163987 LDP:** Approval of a Minor Partition creating two lots. The final plat was submitted, but not recorded within the City timeline and the preliminary land division expired.

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 March 11, 2019 and revised notice on March 15, 2019. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts have been proposed. An easement is proposed benefiting the adjacent property to address the driveway/eave encroachment on this property. Because the easement benefits an adjacent property and is not required via this land division, the standards of 33.636 do not apply.
I	33.639 - Solar Access	All 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 zone	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 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 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 12,526 square feet. The maximum density in the R5 zone is one unit per 5,000 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 (2) units and a minimum required density of 2. If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to one (1) unit.

The applicant is proposing two (2) single-dwelling parcels. The density standards are therefore met.

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	7,483		63	118	63
Parcel 2	4,392		36.9	118	36.9

* 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.

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

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2, A.10 & A.17) that identifies each tree, its condition and suitability for preservation or its exempt status and specifies a root protection zone and tree protection measures for each tree to be preserved. Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees subject to the tree preservation standard:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
94	Pacific Madrone	34	Yes	No	Yes	Per Arborist
95	Magnolia	21	No	No	Yes	Per Arborist Report
96	California Bay	40	No	No	No	Remove

The total non-exempt tree diameter on the site is 95 inches. The applicant proposes to preserve the Pacific Madrone & Magnolia trees, which comprises 55 inches of diameter, or 57 percent of the total non-exempt tree diameter. This proposal complies with Option 3 of the tree preservation standard, which requires tree preservation of at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the Madrone & Magnolia trees being preserved and the required root protection zone (Exhibit C-1). The Tree Preservation Plan is based on the arborist reports and any new utilities (water, sewer, gas etc..) will be required to be bored under the tree roots to ensure health of both trees will be maintained (Exhibit A.17).

In addition, the applicant's arborist report has also identified two trees, a 15-inch Willow (#99) and a 10-inch Ash (#100) adjacent to the the eastern property line that can be retained and protected without tree protection fencing based on their location in association to the new development on Parcel 2.

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

In order to ensure that future owners of the Parcels 1 and 2 are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.2, A.10 & A.17).

With the implementation of the noted conditions, the approval criteria will be 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. The applicant's site plan (Exhibit C.1) and arborist report (Exhibit A.10 & A.17) address how Tree #95 and #94 will be protected when development occurs within the public right-of-way and when development occurs on Parcel 2. 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. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new 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 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.

Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

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

The applicant provided a written narrative (Exhibit A.9) addressing the transportation approval criteria above that was reviewed by PBOT.

The applicant proposes a two-lot partition, retaining the existing home and constructing a new home on the new lot to the south, which is proposed to be 37-ft wide abutting SE 62nd. Vehicle access for the two proposed homes will be via the existing curb cuts of the parent parcel. The northern curb cut will remain with the existing home; while the new lot will utilize the existing curb cut or be modified at time of building permit. This will preserve at least four on-street parking spaces abutting the site. The applicant's findings note that Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, the proposed partition is projected to generate one additional morning and evening trip, for approximately ten daily trips for the new parcel. The small number of trips added into the transportation system resulting from the development will not adversely impact the operations of area intersections. Tri-Met bus service #2-Division and #9-Powell are within quarter mile of the site. SE 62nd is a Local Service street, which leads to numerous bicycling routes surrounding the site and to other destinations within the City. And the sidewalk corridor is substantially complete, providing safe routes to the surrounding neighborhoods and transit services. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area and will not negatively impact transit service or safety for any mode.

The existing frontage on SE 62nd Avenue does not meet City standards for a sidewalk corridor. Right-of-way dedication and reconstruction of the existing sidewalk to meet City standards will improve conditions for pedestrians, including residents of this site. These improvements are further discussed further under Criterion L. 33.654.

As such, with the required dedications and improvements along this frontage PBOT concludes the transportation system will be capable of supporting the proposed development in addition to the existing uses in the area. Therefore, 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 & E.4 for detailed bureau comments.</p> <p>The Water Bureau notes there is water service available via a within SE 62nd Avenue. The existing house is served by a 5/8-inch meter service from this water main. As a result of the proposed land division, the water line that provides service to the existing home on Parcel 1 will no longer be located entirely on the same lot as the home. Title 21 requires that the water service connection be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. Therefore, prior to final plat, the water service for the existing home must be relocated, so that the service connection will be located along the frontage of the Parcel 1. The new water line will need to be bored to ensure the health of the required trees to be preserved per the arborist report (Exhibit A.17).</p> <p>The Fire Bureau has reviewed and verified the Fire Flow information (Exhibit A.11) from the nearest fire hydrant has adequate capacity to serve the proposed development.</p> <p>With the condition noted above, the water service standards of 33.651 have been verified and will be met.</p>
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33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

The Bureau of Environmental Services (BES) has indicated that service is available to the site and has reviewed the applicant's proposal (Exhibit C.1 & A.1) and determined the following:

Existing House on Parcel 1: The existing house is currently connected to the combined sewer via a lateral located approximately 28 feet from the manhole in SE 62nd Avenue. This places the lateral within the frontage of Parcel 1.

Future Development on Parcel 2: Proposed Parcel 2 will be served by a new connection to the sewer in street within its frontage.

BES finds the applicant's proposed sanitary sewer service acceptable for reviewing the preliminary land division application against sanitary sewer disposal approval criterion.

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.

Public Street Improvements: As a condition of this land use approval, PBOT 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.

The applicant has proposed the following stormwater management methods:

- **Parcel 1 with the existing house:** The existing house has downspouts that drain to the ground. The applicant notes on the proposed site utility plan, the downspouts will go to splashblocks and disposal points will be setback from the new property line.
- **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.

Bureau of Environmental Services (BES) reviewed the stormwater proposal and finds the applicant's stormwater management plan acceptable for the purpose of reviewing the preliminary land division application against the stormwater management standards and approval criterion.

The Stormwater Management standard and criteria of 33.653 have been verified and met.

33.654.110.B.1 Through streets and pedestrian connections -See Exhibit E.2

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.

Given the areas general development pattern, the location of the existing dwelling on the site, PBOT identified no opportunities for additional connections.

Therefore, 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.

The site has approximately 100 feet of frontage on SE 62nd Avenue. SE 62nd Avenue is classified as a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 1100 feet from the site on SE Powell Boulevard via Bus #9.

The City's Transportation System Plan (TSP) classifies SE 62nd Avenue as a Local Service Street for all modes.

Existing improvements: SE 62nd Avenue is improved with a 23-ft. paved roadway within a 38.9 ft. right-of-way, in which the pedestrian corridor is improved in a 0.5-4-0 configuration.

According to the City's Pedestrian Design Guide, a Local Service street in an R5 zone requires a 11-ft. sidewalk corridor, to consist of a 0.5-ft. curb, 4-ft. furnishing zone, 6-ft. sidewalk, and 0.5-ft. frontage zone. The existing pedestrian corridor does not meet the City standards due to a 4.5-ft. wide curb tight sidewalk.

In this case Portland Bureau of Transportation (PBOT) has determined frontage improvement would be required along this frontage with a 6.5 ft. street dedication to meet City standards, which will ensure safe pedestrian travel is possible to/from the proposed development.

The applicant submitted an Alternative Review, 19-1428543 PW (Exhibit A.18) to retain the current curb tight sidewalk in order to preserved two large trees, one being a 34-inch DBH Madrone Tree (Tree 94) which is required to be preserved in conjunction with the land division process. The applicant submitted an arborist report indicating the existing trees would be negatively impacted by the construction of the standard sidewalk corridor. In reviewing the case, the Committee is supportive of retaining the existing curb tight sidewalk within the root protection of the 34-inch DBH Madrone tree (Tree #94), then widened to meet the standard 11-ft pedestrian corridor for the remainder of the parent parcel to the south.

As a condition of final plat approval, a 6.5-ft. street dedication must be provided along the entire frontage of both parcels. This street dedication must be reflected on the final plat survey.

The reconstruction of the pedestrian corridor shall follow the PW Committee decision of the Public Works Alternative Review (19-1428543 PW) along Parcel 1. As a condition of building permit approval on Parcel 2, the applicant will be required to reconstruct the pedestrian corridor to be in compliance with the current City standards as described above.

Curb cuts and driveways must meet the requirement in Title 17. The applicant is proposing to retain both curb cuts in conjunction with this two-lot partition. Title 17, specifically Section 17.28 driveway and curb cut requirements will be enforced during the review of building permits. As a condition of building permit, the applicant is required to reconstruct any curb cuts to provide access to legal parking space and close any section of the curb cut that does not align with that access.

Encroachments: An existing chain-link fence is currently and will be placed within the public right-of-way following this decision. Private items placed within the right-of-way require a Revocable Encroachment Permit, therefore PBOT will require the fence to be either permitted or removed prior to Final Plat. Photographic evidence this has been completed may be required.

With the required street dedication and frontage improvements, the width of the right-of-way will be sufficient to accommodate the expected users and PBOT has approved the elements within the right-of-way. With the conditions noted above, this criterion is met.

33.654.120.H. Street Trees Standard

The City Forester reviews this land division proposal for its impact on existing street trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Trees Code.

Existing Street Conditions:

- SE 62nd Avenue: The site has approximately 100 feet of street frontage. The right-of-way is improved with pavement, curbs, planting strip, and sidewalks. There are no overhead high voltage power lines. There are no street trees.

The applicant did not provide a conceptual street tree planting plan.

Street Tree Planting (11.50.060.C):

One street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum of 1.5 caliper inches and be a species chosen from an approved street tree list. Street tree planting may be exempt under 11.50.00060.B when existing above or below utilities prevent planting street trees or when the existing planting strip is less than 3-feet wide. Street trees are required to be planted through building permit.

Urban Forestry notes the following:

- Parcel 1: There is approximately 63 feet of street frontage at this location. Requiring 2 trees to be planted or preserved.
- Parcel 2: There is approximately 37 feet of street frontage at this location, requiring 1 tree to be planted or preserved.

Due to the existing condition of the right-of-way, Street trees may not be required, unless PBOT requires street improvements.

The development will be subject to Urban Forestry standards and requirements during permit review process. Urban Forestry has no objections to this proposal. This standard is met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent 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 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 R5 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 at least 5 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 plan showing the surveyed location of the existing building relative to the adjacent new lot lines.

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 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.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are tree preservation and street dedication with street frontage improvements to reconstruct the pedestrian corridor along this frontage. With conditions of approval that address these requirements this proposal can be approved. The neighbors driveway to the

south of the site, encroaches on a small portion of the future new lot, Parcel 2 and a private access easement is being provided for this encroachment.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition, that will result in two standard single-dwelling lots, as illustrated with Exhibit C.1, 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 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;
- 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 SE 62nd Avenue. The required right-of-way dedication must be shown on the final plat.
2. 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(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) 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 must obtain an approved Right-of-Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the frontage of Parcel 1, where the existing house will be retained, must be constructed prior to final plat approval. Those improvements along Parcel 1 must be in compliance with the Public Works Alternative Decision. The improvements along the frontage of the undeveloped Parcel 2 may be constructed with development on that lot as per the City Engineer's discretion. This condition shall be met to the City Engineer's satisfaction.

Utilities & Existing Development

2. The existing fence within the right-of-way must be removed or permitted through Encroachment Permit. This condition must be met to the satisfaction of the City Engineer/PBOT;
3. The applicant shall meet the requirements of the Water Bureau concerning relocation of the water service connection to the existing home. Also, the applicant must obtain and finalize plumbing permit for this work on property for the new water line for the existing house on Parcel 1, prior to final plat approval. The new water line must be bored as per Arborist recommendation (Exhibit A.17).
4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.

Required Legal Documents

5. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. Frontage Improvements within the public right-of-way and development on Parcel 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.2, A.10 & A.17). Specifically, the Pacific Madrone (#94) & Magnolia (#95) trees are required to be preserved, with the root protection zones indicated on Exhibit C.1 & Arborist Report (Exhibit A.2, A.10 & A.17.). Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
2. The applicant must meet the addressing requirements of the Fire Bureau and Fire Bureau requirements for 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: Lois Jennings**Decision rendered by:**  **on May 9, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed May 13, 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 November 27, 2018 and was determined to be complete on March 7, 2019.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on November 27, 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: July 4, 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’s Statement
 - 1. Narrative Addressing Approval Criteria
 - 2. Original Arborist Report
 - 3. Existing Conditions Survey
 - 4. Original Preliminary land division site plan
 - 5. February 25, 2019 Applicant response to incomplete letter
 - 6. 1962 deed for property
 - 7. Revised Front page of application including both tax account numbers
 - 8. Current Deed showing ownership
 - 9. Revised Narrative addressing land division approval criteria
 - 10. February 18, 2019 Arborist Report
 - 11. Fire Flow Service
 - 12. Revised Preliminary Survey with no surveyor stamp
 - 13. E-mail from applicant requesting not to deem application complete
 - 14. March 6, 2019 Applicant cover letter
 - 15. Simplified Approach Form

16. Revised Preliminary land division site plan with surveyor stamp
 17. March 4, 2019 Revised Arborist Report
 18. Public Works Alternative #19-142853 PW decision
 19. E-mails to and from applicant regarding neighbor's driveway encroaching & easement
 20. April 30, 2019 New Preliminary Site Plan showing easement
- B. Zoning Map (attached)
- C. Plans/Drawings:
1. Site Plan (attached)
- D. Notification information:
1. Mailing list
 2. Mailed notice
 3. Mailing list
 4. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 - a. Amended PBOT response dated May 8, 2019
 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: None
- G. Other:
1. LU Application
 2. Expedited Land Division Acknowledgement
 3. Incomplete Letter
 4. E-mail communication with applicant

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 18-270272 LDP
1/4 Section	3337
Scale	1 inch = 200 feet
State ID	1S2E08BC 7700
Exhibit	B Mar 07, 2019

