



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

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Date: July 29, 2019
To: Interested Person
From: Lois Jennings, 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 18-116830 LDP

GENERAL INFORMATION

Applicant: Robert Price | Planning Consultant
3935 NE 72nd Avenue | Portland, OR 97213
(503) 281-1037

Owner: Peter & Natalya Nesterenko
PO Box 30034 | Portland, OR 97294

Surveyor: Joe Ferguson | Ferguson Land Surveying
646 SE 106th Ave | Portland, OR 97216

Site Address: 11417 NE MORRIS ST

Legal Description: LOT 2, PARTITION PLAT 2016-95
Tax Account No.: R649673780
State ID No.: 1N2E27AC 03102
Quarter Section: 2742

Neighborhood: Parkrose Heights, contact Tom Badrick at badrickt@gmail.com.
Business District: Gateway Area Business Association, contact at info@gabanet.com
District Coalition: East Portland Neighborhood Office, contact Victor Salinas at 503-823-6694.

Zoning: R7h- Single Dwelling Residential with "h" Aircraft Landing 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 subject site into two parcels. Parcel 1 will be 7,209 square feet in size and Parcel 2 will be 10,850 square feet in size. Parcel 1 is proposed to be a standard lot and Parcel 2 is proposed to be a flag lot. Parcel 1 is permitted for a residential structure which is currently under construction. There are three trees on the site which are required to be preserved through a previous land use review.

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 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.**

FACTS

Site and Vicinity: The subject property is relatively flat. The site has several large trees and landscaping shrubs. Three trees will be retained to meet tree preservation requirements. There is a new house under construction, which will be retained. Surrounding development is primarily ranch style single family dwellings on larger lots. The street grid consists of long blocks along east-west streets and limited connectivity from north to south.

Infrastructure:

- **Streets** –The site has approximately 86.2 feet of frontage on NE Morris Street. There is one driveway entering the site. At this location, NE Morris Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 575 feet from the site at 111th Drive via Bus 23.

NE Morris Street has a 28-foot curb to curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 86.2-foot wide site frontage there is no curb or sidewalk. There is approximately 11 feet of right-of-way between the edge of pavement and property line.

- **Water Service** – There is an existing 8-inch CI water main in NE Morris Street.
- **Sanitary Service** - There is an existing 8-inch VSP public combination sewer line in NE Morris Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R7 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 Aircraft Landing (“h”) overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. On this site the base zone (R7) height limit of 30 feet applies and cannot be exceeded without a future adjustment review.

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

- **LU 14-196666 LDP AD:** Approval of a Partition creating two parcels and allowing for one of the parcels to exceed maximum lot size. *Further division of this parcel does not violate any conditions of approval or create density conflicts.*
- **LU 18-121595 TV:** Tree Violation review approving the removal and replacement of trees that were required to be preserved through LU 14-196666 LDP AD. The replacement trees will continue to be preserved through this land division proposal.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 2, 2018**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636-Tracts & Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing	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.

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 18,059 square feet. The maximum density in the R7 zone is one unit per 7,000 square feet. Minimum density is one unit per 7,000 square feet based on 80 percent of the site area. The site has a maximum density of 2 units and a minimum required density of 1 unit. The applicant is proposing 2 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R7 Zone	4,200	12,000	40	55	30	40	40
Parcel 1	7,209		73.2	119.72	73.2		
Parcel 2	10,850 with pole (Flag only is 9,292)					132.5	70

* 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.

** For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots:

When allowed

In this case the applicant is proposing 2 parcels, only one of which is a flag lot. The site has dimensions which preclude a land division that meets the minimum lot width standard. The minimum density standards are met. Therefore, the thresholds for when a flag lot is allowed to be created have been met.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. In this case, the flag pole portion of Parcel 2 will be located to east of the existing driveway. The location of the new house with an attached garage is currently almost completed except for the interior. The new house is 5-ft. from the west property line, which constrains the access pole to be located on the west side of this property. A minimum distance of 15-ft. between the west property line and the existing house would be required, to be able to have a 12-ft access pole, with a 3-foot setback to the new house. The house plan shows the attached garage located within the

southwest portion of the house facing the street, so it would be difficult to redesign the house at this stage to have a garage with vehicle access from the access pole to the east. Therefore, the layout of the new house on the property does not allow for shared vehicle access at this location. As Portland Bureau of Transportation notes under Transportation Impacts criterion, 33.641.020, below... “there is sufficient space to accommodate one on-street parking space between the driveways...” No other alternatives beyond the proposed location were suitable for the additional vehicle access.

Parcel 2 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 2 is allowed.

However, as discussed in the Development Standards Section listed below the lot dimensions and areas may be modified at time of final plat to ensure that the new house under construction on Parcel 1 will remain in conformance with Title 33 Development standards.

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.3 & A.4) 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.

<u>Tree #</u>	<u>Common Name</u>	<u>Inches (DBH)</u>	<u>RPZ</u>
#8	Colorado Blue Spruce	12	12- ft.
#9	Colorado Blue Spruce	13	13-ft.
#20	Pear	11	11-ft.

Based on this information, trees #8, #9 and #20 (listed above), which provide a total of 36 inches of tree diameter, are subject to the preservation requirements of this chapter. These three trees were required to be preserved per the tree violation review decision, land use case file #LU 18-121595 TV (Exhibit G..6) and continue to be preserved under this land

division proposal as reflected on tree preservation plan (Exhibit A.16) and preliminary site plan (Exhibit C.1). The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R7 zone and will not conflict with any existing utility easements, proposed services or site grading.

All the trees are less than 20 inches in diameter and the applicant proposes to retain 36-inches of tree diameter, which is equivalent 100 percent of the total tree diameter, so the proposal complies with Option 4.

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

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

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

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

Findings:

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. In addition, preserved trees will be protected with 6-foot high chain link fence, secured by 8-ft. metal poles driven into the ground at a diameter around the tree(s) as indicated in the applicant's arborist tree preservation plan (Exhibit A.17). 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. Therefore, 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: street capacity and level-of-service; vehicle access and loading; on-street parking impacts: the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts.

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

The applicant is proposed to divide the site into two parcels. Parcel 1 is permitted for a residential structure which is currently under construction. Accordingly, the proposed

project will result in a net increase of one new single-family home. Based upon trip generation estimates obtained from the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 9th Edition*, the project is estimated to generate one additional trip during both the morning and evening peak hours (10 additional trips in total each day). *The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.*

As proposed, each lot will be developed with sufficient on-site parking area to accommodate at least one off-street parking space. The surrounding area has an established residential development pattern that includes single-family homes on lots that accommodate one, and in some cases, multiple on-site parking spaces thereby reducing the demand for on-street parking in this area. Additionally, given the proposed location of the new driveway to serve Parcel 1 and the location of the flag pole to serve Parcel 2 there will be sufficient space to accommodate one on-street parking space between the driveway wings. Given the on-site parking opportunities that will be provided with the new development, on-street parking in the area will not be adversely impacted by the proposed new dwelling unit. There are existing transit facilities in the vicinity and the proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The new house will receive will be served by the residential meter service within its frontage. Service to Parcel 2 must be installed within the pole portion of the lot.</p> <p>The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. Sanitary Connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to City sanitary or combined sewer.</p> <p>The applicant site utility plan (Exhibit C.1) shows:</p> <p>Parcel 1: The new house being constructed is currently connected to 8-inch public sanitary sewer in NE Morris Street within its frontage.</p> <p>Parcel 2: The applicant proposes to serve new development on proposed Parcel 2 via new lateral and connection through the flag access pole within the parcel’s frontage, which is acceptable to BES.</p> <p>The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p> <p>The applicant has proposed the following stormwater management methods:</p> <p>Public Street Improvements: BES understand the applicant has elected to pay the Local</p>

Transportation Infrastructure Charge (LTIC). Public right-of-way (ROW)) improvements will not be constructed. The applicant is required to provide stormwater waivers of remonstrance prior to final plat approval as discussed further by Portland Bureau of Transportation under Section 33.654.120.B below.

The applicant has proposed the following stormwater management methods for the individual lots (Exhibit C.1.)

Parcel 1 with the new house (permit# 17-240247 RS) to be retained: The new house has downspouts that are directed to individual on-site drywell that will treat the water.

Parcel 2-Flag Lot: Stormwater from the future development will be directed to individual on-site drywell that will treat the water and slowly infiltrate it into the ground.

BES reviewed the stormwater report (Exhibit A.8, A.15, A.16 and site utility plan (Exhibit C.1). Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards and accommodate water from a reasonably-sized home including drive.

Bureau of Environmental Services (BES) finds the applicant's stormwater system for the new house on Parcel 1 and proposed stormwater management plan for Parcel 2 acceptable for reviewing the preliminary division application against the stormwater management approval criterion. The stormwater management criteria and standard is met.

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.

Portland Bureau of Transportation (PBOT) reviewed this proposal and provided the following comments: Although the location of the subject site within its block is a desirable location to provide a new public street or pedestrian connection through the block, said potential connections are not feasible due the existence of multiple flag lots on the north side of the block (along NE Siskiyou). These flag lots are developed with detached single-family residences which preclude any public street or pedestrian connection opportunities, unless several of these existing homes are demolished. These impacts do not make further connectivity through the subject site or block feasible.

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.

In reviewing this land division, Portland Bureau of Transportation (PBOT) 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. PBOT provides the follow comments regarding this land division proposal:

At this location, according to City GIS, NE Morris is improved with 28-ft of center-strip paving within (no curb or sidewalk). The Transportation System Plan (TSP) classifies NE Morris as a Local Service Traffic Street, a Community Transit Street, a City Walkway, and a Local Service Street for all other modes.

For streets classified as City Walkways and abutting R7-zoned sites, the City's public ROW standards document requires a 58-ft ROW width to accommodate a 26-ft roadway width (which would allow parking along both sides) and two 16-ft wide sidewalk corridors (0.5-ft curb, 8-ft wide stormwater management facility, 6-ft wide sidewalk & 0.5-ft wide frontage zone). The new curb must be located 13-ft from the ROW centerline. ***The 4-ft dedication of property necessary to accommodate standard improvements was completed as part of a prior land use review (14-196666 LDP AD).***

On April 13, 2016, City Council created the Local Transportation Infrastructure Charge (LTIC) to fund improvements on unimproved streets via approval of Ordinance No. 187681. The purpose of the LTIC is to provide applicants with an alternative to constructing street improvements along their frontage provided that the site meets specific criteria. The LTIC is applied to the site's frontage at a rate of \$600.00 a linear foot. **The applicant submitted written confirmation to BDS on July 27, 2018 indicating that they are electing to pay the LTIC (Exhibit A.10).** Accordingly, as a condition of Final Plat approval, the applicant will be required to pay the LTIC.

Additionally, when the street is to be improved, it would be likely be part of a larger Local Improvement District (LID) project. Having the owners executing street and stormwater waivers of remonstrance ensures participation in such a Local Improvement District in the future. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements), prior to final plat approval.

PBOT determined the existing street system is capable of serving the existing users and proposed new development. With the conditions of approval described above, this criterion is met.

33.654.120.H- Street Trees - See Exhibit E. for service bureau comments

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:

- NE Morris Street: There is approximately 86.20 feet of street frontage. The right-of-way is improved with pavement only. There are overhead high voltage power lines. There are no street trees.

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.)

However, as discussed under Criterion 33.654.120.B & C. listed above, PBOT is not requiring frontage improvements along NE Morris street. Therefore, Urban Forestry has no objections to this land division proposal. This criterion is met.

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

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

DEVELOPMENT STANDARDS

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

Future Development

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 2.

Existing development that will remain after the land division. The new house being constructed on the site, under building permit #17-240247 RS and 17-240247 REV 01 RS 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 R7 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 (33.110.22)– The new house identified as under construction on the site plan (Exhibit C.1) is 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 the Zoning Code or be in conformance with an approved Adjustment Land Use Review decision that specifically approves alternative setbacks. The new house must be a minimum of 3 feet from the new side lot line abutting the access pole new property line for and minimum 5-ft. to the new rear 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 new house (including eaves, bay windows, decks, covered patios, covered entry etc.) being constructed relative to the adjacent new lot lines.
- Building Coverage (33.110.225): The new house, identified as under construction on site plan (Exhibit C.1), is to remain on the site and must meet the Zoning Code for building coverage for the new lot area. 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 new house (including eaves, bay windows, decks, covered patios, covered entry etc..) being constructed relative to the adjacent new lot lines. If it is determined at the time of final plat the new house being constructed on Parcel 1 exceeds maximum building coverage the applicant has following options:
 - 1) Alter the new house to meet building coverage for the new lot area of Parcel 1 or
 - 2) Lot dimensions and area of Parcel 1 and 2 at the time of final plat stage may be modified to ensure the new house being constructed is in compliance with building coverage. Modified lot dimensions and area for Parcels 1 and 2 must still be in compliance with the lot dimension regulations of Section 33.610.200 and for Flag Lots 33.610.400.
- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, Parcel 1 with the new house will no longer meet this standard. Parcel 1 is 7209 square feet; therefore 2,884 square feet of tree canopy area is required. The revision to the main building permit, 17-240247 REV 01, shows enough additional medium trees (4) being planted and retaining tree #8 -Colorado Blue Spruce, to meet this development standard. Prior to final inspection of the building permit and occupancy of the house the applicant will need to document the trees were planted and Tree #8 has been retained on Parcel 1 with the new house.

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 requirements; posting of "No Parking" signs in the flag pole driveway; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2; 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-lot minor partition, for a standard lot and a flag lot, 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 involve stormwater for the future development on Parcel 2, tree preservation and verifying the new house being constructed on future Parcel 1 will remain in compliance with the Zoning Code.

Fire Bureau has specific addressing requirements for the flag lots and is requiring more information from the applicant regarding Fire Flow service from the nearest fire hydrant to determine if sprinklers will be required for future development on Parcel 2 to meet Fire Bureau Code requirements for fire access. Currently, the existing street, NE Morris, does not meet City standards and the applicant chose to make payment into LTIC and sign street and storm sewer waivers of remonstrance for future participation in a Local Improvement District (LID).

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel minor partition that will result in two single dwelling lot (a standard lot & a flag lot) as illustrated with Exhibit C.1, subject to the following conditions:

- A. Supplemental Plan.** Two copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review Section of BDS 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:
- Existing trees required to be preserved on both parcels and any trees planted to meet Tree density requirement on Parcel 1 with the new house
 - Any buildings, eaves, including decks 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;
 - Surveyor will survey in the dimension of the new house, eaves, deck etc. in association to the new property lines to document minimum Zoning Code setbacks are being met for the R7 zone.
 - Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.2 and C.3 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."
2. Parcel 1 and Parcel 2 lot areas and dimensions may vary from the final plat approval standards of 33.663.200.A. to allow for the new house being constructed on Parcel 1 to meet Title 33 Development Standards. However, Parcel 2- Flag Lot must remain in compliance with the minimum Flag Lot standards stated in Section 33.610.400

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

Streets

1. The applicant shall pay the Local Transportation Infrastructure Charge and complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

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.
3. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2, if applying the exception, an Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

4. The supplemental survey must document that the new house with deck and any accessory structures on future Parcel 1 will be in compliance with building coverage.

If it is determined the new house with the new deck exceeds maximum building coverage for the new Parcel 1's lot area, then the applicant may modify the lot dimensions and areas of Parcels 1 and 2 to be in compliance or the applicant must obtain a finalized building permit for modifications to the new house that will remain on proposed Parcel 1 that demonstrate compliance with the standards listed below in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.5 of LU 18-116830 LDP.*

- 33.110.225 (standard for building coverage)


Required Legal Documents

5. If required by the Fire Bureau per Conditions C.2 & C.3, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 and possibly Parcel 1 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
6. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1 and Parcel 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. Development on Parcel 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's signed arborist Tree Preservation Plan (Exhibit A.16) Specifically, trees numbered 8, 9 and 20 are required to be preserved, with the root protection zones indicated on Exhibit C.11. 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 for Parcel 2, the flag lot. The location of the sign must be shown on the building permit.
3. The applicant must post the flag pole driveway for Parcel 2 with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
4. The applicant must meet the 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.
5. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcel 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
6. Prior to occupancy permit and/or final of the new house permit on Parcel 1 the applicant must document compliance with Title 11 requirements for Tree Density for the new lot area of Parcel 1.

Staff Planner: Lois Jennings

Decision rendered by:  **on July 25, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed on July 29, 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 February 5, 2018, and was determined to be complete on July 30, 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 February 5, 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 requested that the 120-day review period be extended for the maximum allowance (Exhibit A.11 & A.12) and with this extension **will expire on: July 30, 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.

Expiration of this approval. An approval expires three years from the date it is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, the land division has been recorded.

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 the land division. The final land division plat **must** be submitted to the City **Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

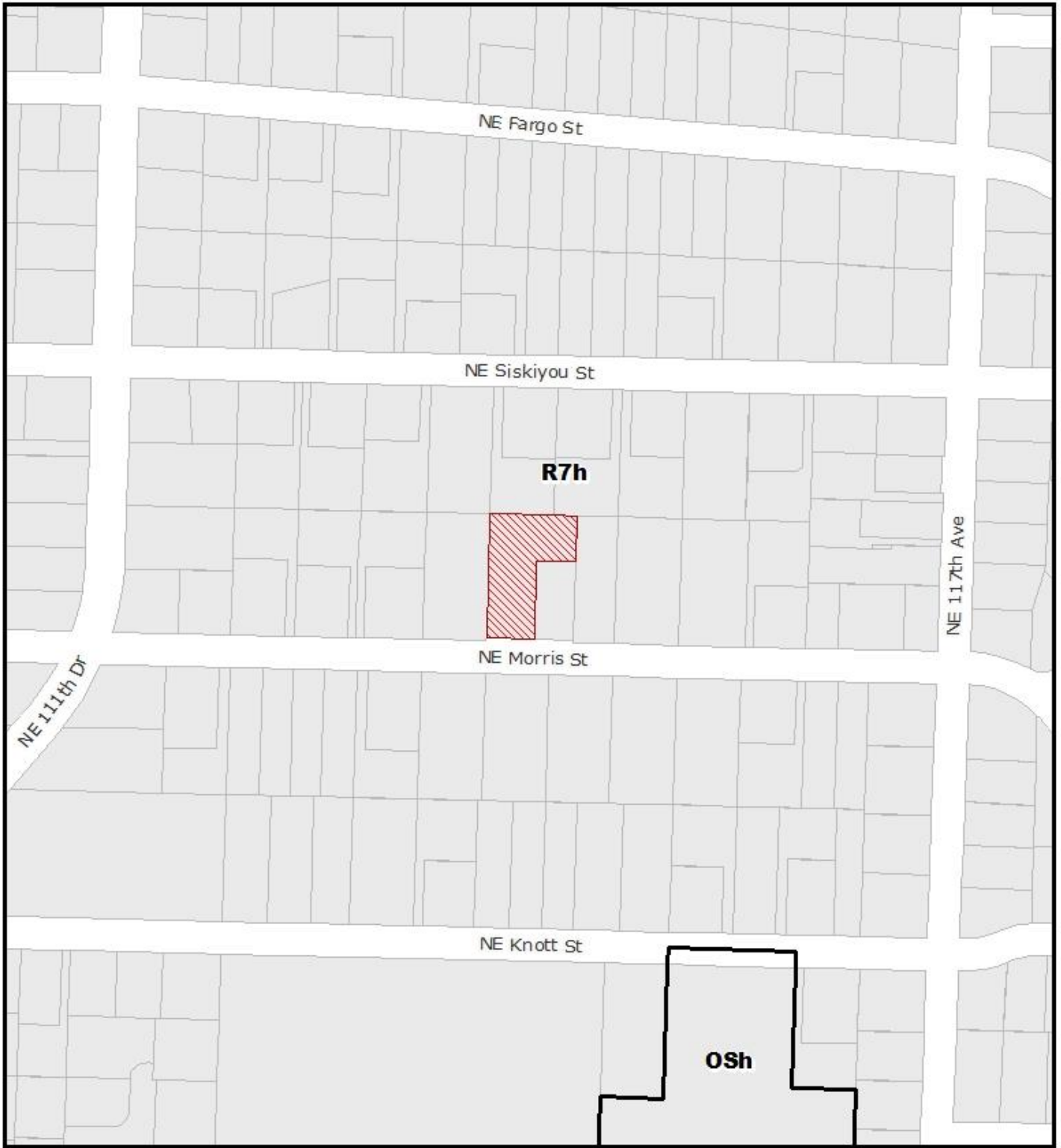
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Site Plan
 2. Narrative from Peter Nesterenko
 3. February 1, 2018 Arborist Report
 4. March 19, 2018 Arborist Letter and Tree Preservation Plan
 5. July 27, 2018 Cover letter from Robert Price
 6. Narrative addressing Land Division Approval Criteria submitted July 30, 2018
 7. Revised Site Plan submitted July 30, 2018
 8. Redmond Geotechnical report dated August 25, 2018
 9. Simplified Approach Form for Stormwater submitted July 30, 2018
 10. Owners letter choosing LTIC
 11. Request for an Extension of 120-day review submitted/ received 10/22/18
 12. Request for another Extension of 120-day review submitted/received January 22, 2019
 13. Simplified Approach Form submitted June 5, 2019 via e-mail
 14. Simplified Approach Form submitted June 27, 2019
 15. Stormwater narrative submitted June 27, 2019
 16. Revised Site Utility Plan for Parcel 2 submitted June 27, 2019
 17. Tree Preservation Plan from arborist approved under LU 18-121595 TV
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Site & Utility Plan with Tree Preservation Plan (attached)

- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services (BES)
 - a. July 1, 2019 BES Amended Response
 - 1. Bureau of Transportation Engineering and Development Review
 - 2. Water Bureau
 - 3. Fire Bureau
 - 4. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division
 - a. Amended Response dated July 19, 2019
 - 6. Life Safety Section of BDS
- F. Correspondence: None
- G. Other
 - 1. Original LU Application
 - 1. Expedited Land Division Acknowledgement
 - 2. March 6, 2018 Incomplete Letter
 - 3. Hearings Officer Decision for LU 14-196666 LDP AD and Plat Approval
 - 4. LU 18-121595 TV Decision
 - 5. 17-240247 REV 01 RS-
 - 6. E-mail Communication with applicant and consultant from Jan 2018-July 2019

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).

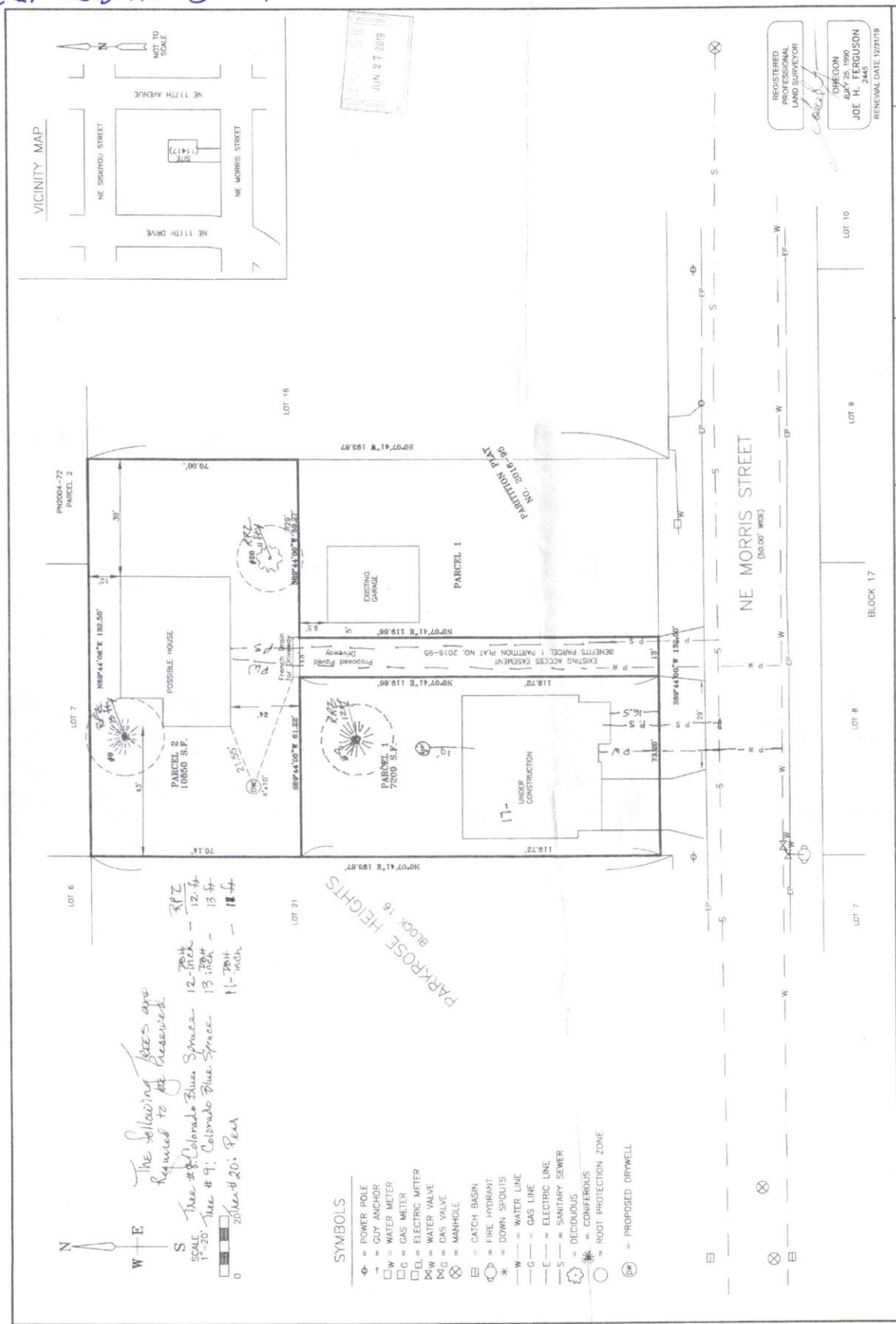


ZONING 
NORTH

 Site

File No.	<u>LU 18-116830 LDP</u>
1/4 Section	<u>2742</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1N2E27AC 3102</u>
Exhibit	<u>B Feb 14, 2018</u>

LU 18-116830 LDP
Exhibit C.1



The following trees are required to be preserved:
 Tree #8: Colorado Blue Spruce - 12.4' - 13.5'
 Tree #9: Colorado Blue Spruce - 11'-12.4'
 Tree #20: Pear

SYMBOLS

- ⊕ = POWER POLE
- ⊖ = GUY ANCHOR
- ⊗ = WATER METER
- ⊙ = GAS METER
- ⊘ = ELECTRIC METER
- ⊚ = WATER VALVE
- ⊛ = GAS VALVE
- ⊜ = MANHOLE
- ⊝ = CATCH BASIN
- ⊞ = FIRE HYDRANT
- ⊟ = DOWN SPOUTS
- ⊠ = WATER LINE
- ⊡ = GAS LINE
- ⊢ = ELECTRIC LINE
- ⊣ = SANITARY SEWER
- ⊤ = DECIDUOUS
- ⊥ = CONIFEROUS
- ⊦ = ROOT PROTECTION ZONE
- ⊧ = PROPOSED DRYWELL

Ferguson Land Surveying, Inc. 646 SE 106TH AVE. PORTLAND, OR 97216 Phone (503) 408-0601 Fax (503) 408-0602		SITE PLAN PARCEL 2 OF PARTITION PLAT NO. 2016-95, BLOCK 16, PARKROSE HEIGHTS IN THE NE 1/4, SECTION 27, T.1N., R.2E., W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON		PETER NESTERENKO ST. PORTLAND, OREGON 97220		DATE: FEBRUARY 1, 2018 DRAFTED 2.1.18 REVISED 6/25/2019 SHEET 1 OF 1	
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LU 18-116830 LDP
 1/22/19
 Plan Modified by Planner #8 on being Received
 Exhibit C.1

REGISTERED PROFESSIONAL LAND SURVEYOR
 JOE H. 2445
 OREGON
 RENEWAL DATE 12/31/19

JUN 27 2019