



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

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Date: August 7, 2019
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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 18-230064 LDP

GENERAL INFORMATION

Applicant: Tien Huynh | Rose City Home Design
6075 SW Alice Lane | Beaverton, OR 97008
(503) 830-8024 | rosecityhomedesign@gmail.com

Owner: Chap Ma
1909 NE 140th Ave | Portland, OR 97230
(503) 515-3220 | chapmapdx@gmail.com

Site Address: 3905 N Montana Avenue

Legal Description: BLOCK 19, LOT 15, MULTNOMAH
Tax Account No.: R591903080
State ID No.: 1N1E22CC 06700
Quarter Section: 2629

Neighborhood: Overlook, contact Mike Shea at landuse@overlookneighborhood.org.
Business District: None
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: North Interstate
Other Designations: None
Zoning: Multi-Dwelling Residential 1,000 (R1)
Design Overlay Zone (d)

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

Proposal: The applicant is proposing to partition a 5,000-square foot site into two parcels. Parcel 1 will be 3,250 square feet and Parcel 2 will be 1,750-square feet. The applicant is proposing to retain the existing house on Parcel 1 and will configure Parcel 2 for duplex development.

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.

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 (2 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 approval criteria are found in **Section 33.66.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The site is located on the northwest corner of N Montana Avenue and N Failing Street. Existing development consists of a single family dwelling and detached garage. The site is relatively flat and there is only one tree onsite, a 6-inch plum tree, that is subject to tree preservation requirements. The surrounding vicinity is developed with a mix of single-dwelling, multi-dwelling, commercial, and institutional uses. Kaiser Permanente Interstate Medical office is directly south of the site. Overlook Park is approximately 700-feet south of the site.

Infrastructure:

- **Streets** – The site has approximately 50-feet of frontage on N Montana Avenue and 100-feet of frontage on N Failing Street. There is one driveway entering the site from the Interstate-Montana alley that serves the existing house. At this location, N Montana Avenue is classified as a City Bikeway and Local Service Street for all other modes in the Transportation System Plan (TSP). N Failing Street is classified as a City Walkway and Local Service Street for all other modes. The N Interstate-Montana alley is classified as Local Service. Tri-Met provides transit service approximately 830-feet from the site at the Overlook Park Yellow MAX Line transit station. Therefore, the site is exempt from minimum required parking (33.266.110.B.1).

At this location, N Montana Avenue is improved with a 36-foot paved roadway surface within a 60-foot wide right-of-way. N Failing Street is improved with a 35-foot paved roadway surface within a 59-foot wide right-of-way. Both Street have a pedestrian corridor that consists of a 4-foot planter, 6-foot sidewalk, and 2-foot setback to private property (4-6-2). The N Interstate-Montana alley is improved with a 13-foot paved roadway within a 15-foot wide right-of-way.

- **Water Service** – There is an existing 8-inch DI water main in N Montana Avenue and a 12-inch DI water main in N Failing Street. Avenue. The existing house is served by a metered service from the main in N Montana Avenue.
- **Sanitary Service** - There is an existing Public 14-inch VSP combined sewer main in N Montana Avenue (BES as-built # 20413). According to City records, the existing structure is currently connected to the combined sewer in N Montana Avenue via a lateral located approximately 38-feet from the manhole in N Failing Street. There is no sewer service available in N Failing Street along the site’s frontage.

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

Zoning: The R1 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The “d” overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

Land Use History: City records indicate there are no prior land use reviews for this site.

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **February 1, 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	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The proposed density is less than 40 units.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required

	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required
	33.654.120.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.
	33.654.130.E – Ownership of Alleys	No new alleys are proposed or required

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing to create one lot for the existing detached house (Parcel 1) and one duplex lot (Parcel 2). Single-dwelling or duplex development is proposed for some or all of the site, therefore the applicant must demonstrate how the proposed lots meet the minimum density and not exceed the maximum density stated in Table 120-3 at the time of the preliminary plan review.

Minimum density in the R1 zone is one unit per 2,000 square feet when the site is less than 10,000 square feet in area (33.120.205.C.2) and the maximum density is one unit per 1,000 square feet. The total site area shown on the applicant's survey is 5,000 square feet. Therefore, the site has a minimum required density of 3 units and a maximum allowed density of 5 units.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid development on the site or further division of lots that would result in non-compliance with the overall density requirements of the site. The applicant is proposing to development Parcel 2 with a duplex. Parcel 1 is currently developed with a single family home but may accommodate an additional unit of density upon redevelopment. Therefore, Parcel 1 will have a minimum density of 1 and maximum density of 2 and Parcel 2 will have a minimum and maximum density of 2 units.

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

R1	Minimum lot area (square feet)	Minimum lot width (feet)	Minimum lot depth (feet)	Minimum front lot line (feet)
Detached Houses	none	25	none	25
Duplexes	none	none	none	10
Parcel 1	3,250	50	65	50
Parcel 2	1,750	35	50	35

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

The findings above show that the applicable density and lot dimension standards are met. With a condition regarding density allowance for each parcel, 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.4) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2) that identifies each tree, its condition and suitability for preservation or its exempt status. Based on this information, only a 6-inch plum tree (#2) is subject to the preservation requirements of this chapter.

In this case, the applicant has proposed to remove the 6-inch plum tree as it is in extremely poor condition and located within the footprint of future development on Parcel 2. Based on the small size of this Parcel (1,750 square feet), density requirements of the R1 zone to construct a duplex, and requirement to provide services, it is reasonable to consider mitigation options that will replace the functions of this tree.

The applicant proposes to mitigate for removal of this tree by planting 2 trees in the backyard of Parcel 2. However, based on the limited amount of area available on this Parcel it does not appear appropriate to plant trees to mitigate for removal of the 6-inch plum tree. Therefore, offsite mitigation in the form of payment into the City Tree Preservation and Planting Fund is more appropriate for this proposal.

The tree preservation standards require up to 35 percent of the total non-exempt tree diameter on the site be preserved. This amounts to 2 inches on this site. Mitigation for this amount as opposed to that of the full tree diameter is appropriate based on the poor health and value of this tree. With the condition that a payment equivalent to 2 inches be paid to the City Tree Planting and Preservation Fund prior to final plat approval, tree removal will be adequately mitigated. This mitigation will be consistent with the purpose of the tree preservation regulations, since it will provide for the installation of other trees that will contribute to the general beauty and natural heritage of the City and provide many of the benefits as identified by the purpose of tree preservation regulations.

In order to ensure the mitigation is provided, the applicant must make a payment to Tree Planting and Preservation Fund for 2 trees. With the implementation of the noted condition, 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: 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.

Additionally, where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements to make the lots suitable for their intended uses and the provision of services and utilities.

Clearing and Grading: 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, there are no trees required to be preserved on the site. 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.

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

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

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

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

“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

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

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area.

Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

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

The applicant provided a written narrative addressing the transportation approval criteria above. The applicant proposes a two-lot partition in the R-1 zone, retaining the existing home at the corner with the new lot located to the west abutting N Failing Street. The proposed partition is projected to generate approximately 1 morning peak hour and 1 evening peak hour trip, for approximately 10 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, posing a minimal impact to immediate and surrounding neighborhood; which is residential uses to the north, commercial uses to the west, and a Healthcare parking lot to the south. Due to the zoning and proximity to transit service, on-site parking is not required for either of the two parcels, in which the abutting streets of N Failing and N Montana will be utilized for on-street parking, which eliminates potential conflicts with pedestrians. The site is served by the sufficient transportation facilities to reduce impacts to the neighborhood and provide safety for all modes. Access to Tri-Met Yellow MAX line service is approximately 800 feet to the west. N Failing is an identified *City Bikeway* to the east, and N Interstate is classified as a *Major City Bikeway* to the west, which numerous bicycling routes connects to other nodes within Portland. There are continuous sidewalks in place adjacent to the site and into the surrounding area. 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.

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

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

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

33.651 Water Service standard
The Water Bureau has indicated that service is available to the site, from the 8-inch DI water main in N Montana Avenue and a 12-inch DI water main in N Failing Street, as noted on page 2 of this report. The water service standards of 33.651 have been verified. Therefore, this criteria is met.
33.652 Sanitary Sewer Disposal Service standards
There is no public sanitary sewer available in N Failing Street. The applicant proposes to serve Parcel 2 from the Public 14-inch VSP combined sewer main in N Montana Avenue via an easement over Parcel 1. BES has indicated this route of service is acceptable. The easement must be shown on the final plat. With this condition, the sanitary sewer service standards of 33.652 have been verified. Therefore, this criteria is met.
33.653.020 & .030 Stormwater Management criteria and standards
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant submitted a Simplified Approach Stormwater Report (Exhibit A.3) and has

proposed the following stormwater management methods:

- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto the ground, outside of required setbacks.
- **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. Due to limited area available on this parcel to accommodate a drywell, the applicant requested a plumbing code appeal (#20595) to required setbacks from the future structure (Exhibit A.4). This appeal was granted subject to providing structural information at the time of building permit review for this parcel.

BES has indicated conceptual approval of the Applicants proposed method of stormwater management. Subject to a condition requiring future development on Parcel 2 comply with the requirements of plumbing code appeal #20595, this criteria can be 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. The Development Review Section of the Portland Bureau of Transportation (PBOT) has provided the following evaluation of connectivity at this location:

The site is located approximately 120-feet from N Interstate, and immediately adjacent to established streets of N Failing and N Montana. The surrounding established street pattern meets the City's connectivity goals with many redundant connections in the area. Therefore, additional connections are not practical at this location.

For the reasons described above, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way

33.654.120.F Alleys

In reviewing this land division, 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 has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that the proposed development can be safely served by this existing street without having any significant impact on the level of service provided. Note, the site's N Failing Street pedestrian corridor is 0.5-feet shy of meeting the required planter strip width. However, an Internal Public Works Alternative Review (18-239240 PW) has been approved to allow the existing pedestrian corridor to remain. PBOT additionally provided the following findings regarding the Interstate-Montana alley adjacent to the site:

For the Interstate-Montana Alley, if alley access is proposed, the alley entrance closest to the site access shall be improved with concrete paving to a point 25-ft from back of existing alley (or from the back of a required sidewalk improvement). A compacted grade/gravel section shall be extended to the site access if the new concrete alley paving does not reach said access point. Property dedication will not be required. Furthermore, current practices also require a 20-ft wide maneuvering space within the alley. Therefore, for with a 15-ft wide alley, any proposed garage or parking pad shall be setback from rear property line a minimum 5 feet. If alley access is not proposed, in accordance with 17.28.110.B, no portion of a driveway shall be located closer than 25-ft from the corner of a lot where two streets intersect, including alleyways.

This criterion is met.

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

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

DEVELOPMENT STANDARDS

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R1 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The applicant has proposed to remove a covered back porch in order to comply with the required rear setback. Therefore, prior to final plat approval, the applicant must receive final inspection approval of a building permit to remove this portion of the house and provide a supplemental survey showing the location of the existing building relative to the adjacent new lot lines upon completion of the work.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, the detached garage located on Parcel 2 must be removed prior to final plat. The applicant must provide documentation prior to final plat approval that the required demolition permits have received final inspection approval. Alternatively, the applicant may choose to execute a covenant with the City to retain the accessory structure for up to two years without a primary structure. The covenant must meet the requirements of 33.700.600 and be executed prior to or with the Final Plat.
- Required Off-Street Parking - A detached garage provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on Parcel 2, and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites located 1500 feet or less from a transit station, or 500 feet or less from a transit street with 20-minute peak hour service. Tri-Met provides transit service

approximately 830-feet from the site at the Overlook Park Yellow MAX Line transit station. As a result, no replacement parking is required for Parcel 1.

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

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 – Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire flow/water supply, addressing, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1 (Exhibit E.4)
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval and paying a fee in lieu for the loss of 1 street tree planting space. These requirements are based on the standards of Title 11 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plans (Exhibits C.1-4). 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 Services and Utilities. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in one parcel for the existing house (Parcel 1) and one parcel for a duplex (Parcel 2), as illustrated with Exhibits C.1-4, 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;
- The existing house on Parcel 1 after removal of the covered back porch, per condition C.3 below;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A private sanitary sewer easement, for the benefit of Parcel 2, shall be shown and labeled over the relevant portions of Parcel 1.
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.4 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:

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
2. The applicant must obtain a finalized demolition permit for removing the detached garage on Parcel 2. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
3. The applicant must obtain a finalized building permit for modifications to the existing 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.3 of LU 18-230064 LDP.*
 - 33.120.220 (Setbacks--specifically, the permit must show removal of sufficient portions of the covered back porch to meet the minimum rear setback requirement of 5-feet in the R1 zone);
4. A Maintenance Agreement shall be executed for the Private Sanitary Sewer Easement described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
5. The applicant must pay into the City Tree Preservation and Planting Fund [*Private Property Trees – Planting and Establishment, fee in Lieu (per inch)*] the amount equivalent to 2 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau. Payment must be completed prior to any tree removal, or prior to Final Plat approval, whichever would occur first.

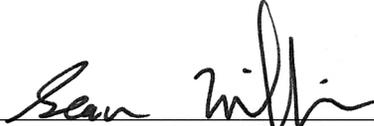
- The applicant must pay into the City Tree Preservation and Planting Fund [*Street Trees – Fee in Lieu of Planting and Establishment (per inch)*] the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

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

Lot	Minimum Density	Maximum Density
1	1	2
2	2	2

- The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
- The applicant must meet the requirements of the Bureau of Environmental Service and BDS Plumbing regarding approved plumbing code appeal (#20595) for installation of a drywell on Parcel 2 at the time of development.

Decision rendered by:  on August 5, 2019

By authority of the Director of the Bureau of Development Services

Decision mailed: August 7, 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 August 30, 2018 and was determined to be complete on January 25, 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 August 30, 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, as stated with Exhibit A.X. Unless further extended by the applicant, **the 120 days will expire on: September 22, 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.

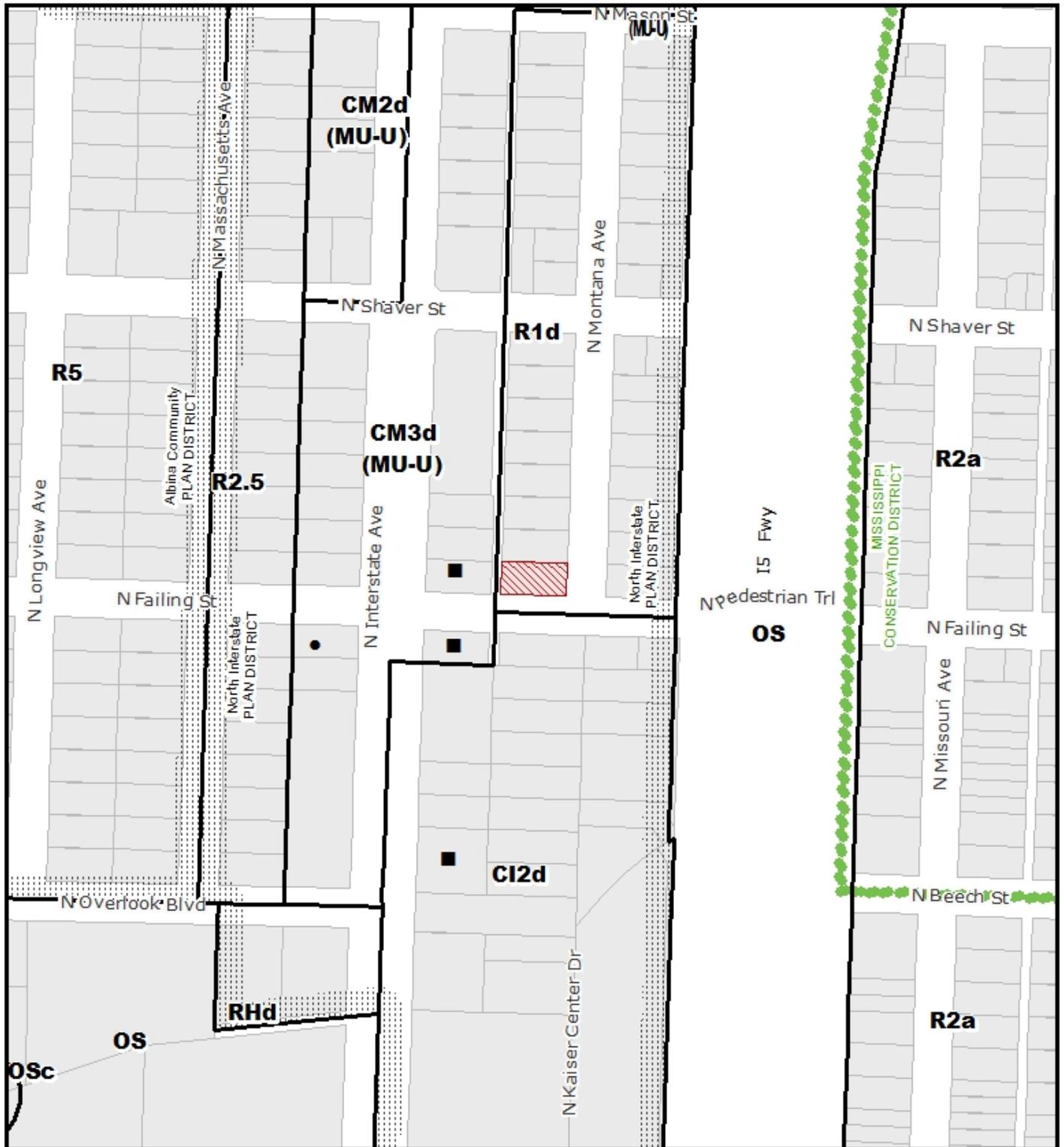
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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
 - 2. Arborist report
 - 3. Stormwater report
 - 4. Plumbing code appeal #20595
 - 5. Request for extension of 120-day review period
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Vicinity Plan and Information
 - 2. Existing Site Plan
 - 3. Preliminary Site Plan (attached)
 - 4. Existing Conditions Survey
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Expedited Land Division Acknowledgement

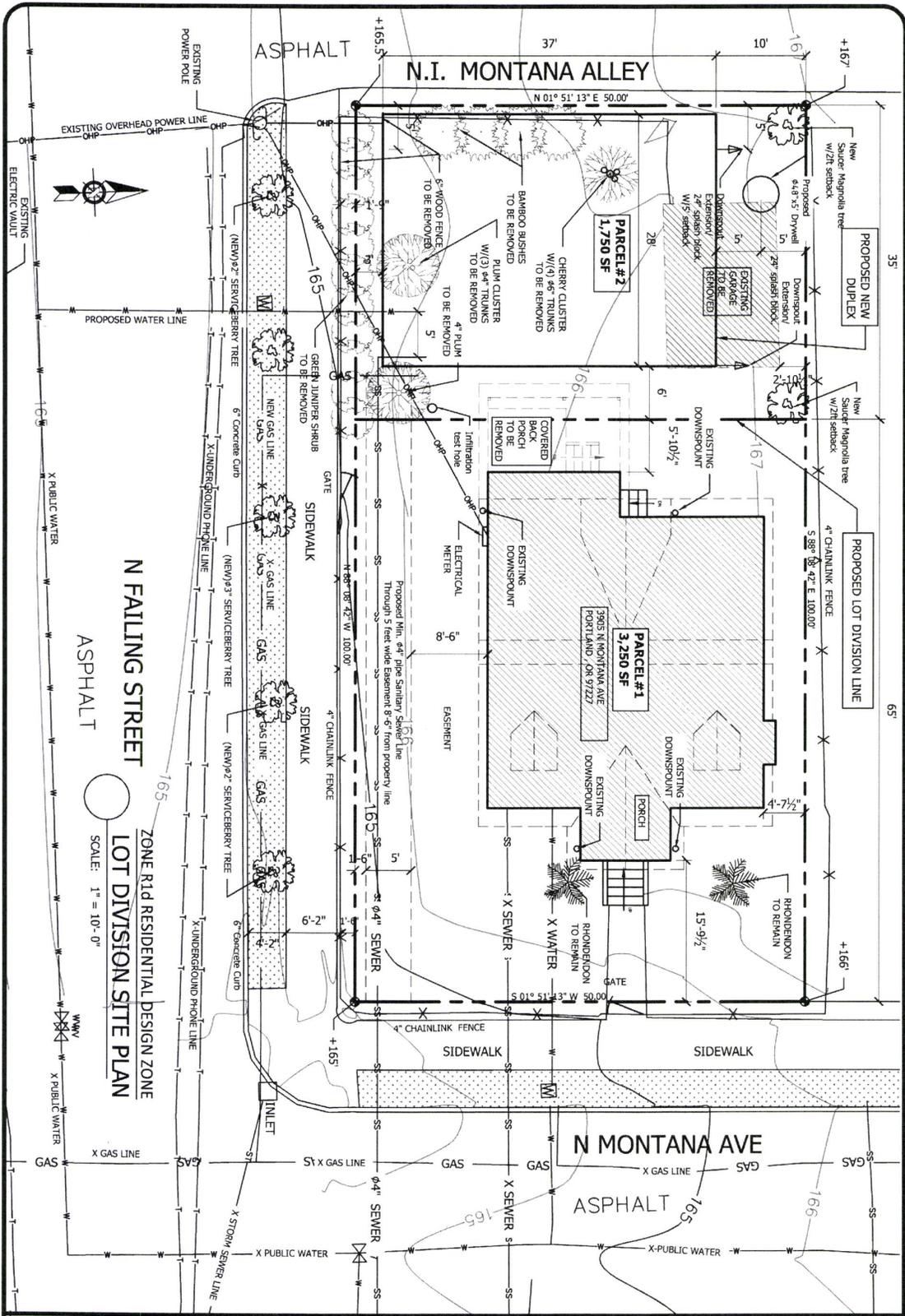
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING 
 NORTH
 THIS SITE LIES WITHIN THE:
 NORTH INTERSTATE PLAN DISTRICT

-  Site
-  Conservation Landmarks
-  Historic Landmark

File No.	LU 18-230064 LDP
1/4 Section	2629
Scale	1 inch = 200 feet
State ID	1N1E22CC 6700
Exhibit	B Sep 04, 2018



N FAILING STREET
 ASPHALT
ZONE R1d RESIDENTIAL DESIGN ZONE
LOT DIVISION SITE PLAN
 SCALE: 1" = 10'-0"

SCALE: 1" = 10'-0" A-3	PERMIT # REVISION DATE: 3/28/2019	CHAP MA 3905 N MONTANA AVE. PORTLAND, OR 97227	LOT DIVISION PRELIMINARY SITE PLAN	 6075 SW ALICE LN BEAVERTON, OR 97008 TIEN HUYNH (503) 830-8024 rosecityhomedesign@gmail.com
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CASE NO 18-27000-81
 EXHIBIT C-3