



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

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Date: June 28, 2022
To: Interested Person
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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 22-115212 LDP

GENERAL INFORMATION

Applicant: Lars M. Ripley
3906 N Massachusetts Ave
Portland, OR 97227
206-930-7157 or larspdx254@gmail.com

Owners: Karen Ripley and Lars Mark Ripley
3906 N. Massachusetts Avenue
Portland, OR 97227

Surveyor: Michael Rennick, Weddle Surveying Inc
6950 SW Hamilton Street, Suite # 170
Tigard, OR 97223

Site Address: 3906 N MASSACHUSETTS AVE

Legal Description: BLOCK 15 LOT 9, OVERLOOK
Tax Account No.: R633902260
State ID No.: 1N1E22CC 09500
Quarter Section: 2629

Neighborhood: Overlook NA, contact Brian Yarne at landuse@overlookneighborhood.org

Business District: NONE
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: North Interstate
Other Designations: None

Zoning: R2.5 -Residential (Single-Dwelling Residential 2,500)
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 proposes to divide this 5,016 s.f. site into two(2) parcels. The existing single-family residence will be retained on Parcel 1 and the existing detached garage will be removed from the site. Parcel 1 will be 3,116 s.f. in site area and Parcel 2 will be 1,900 s.f. in site area. Parcel 2 will be available for future residential development.

In order to show feasibility of providing services and other criteria, the applicant has provided a conceptual development plan showing *a single-family residence with parking on-site for future Parcel 2*. On-site parking is not required (33.266.110.B)

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 or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create two (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 criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The site is a corner lot on the north side of N. Failing Street and N. Massachusetts Avenue. A bungalow style house and a detached two-car garage exist on the site. A pedestrian connection leads to the front porch and main entrance that is oriented towards N. Massachusetts Avenue. An existing driveway provides vehicle access to parking within the detached garage on the site via N. Failing Street. The front yard is a combination of lawn, shrubs and flowering plants which create a landscape area between the front elevation of the house and N. Massachusetts street. Along N. Failing street on the south property line, a retaining wall with a fence on top of it, in conjunction with the detached garage provide a privacy screen for the rear yard.

The surrounding area is a combination of 1- 2-story single-family residences, with a variety of styles from bungalow to foursquare. R2.5 residential zoning is north, and south of this site, but directly to the west the zoning changes to R5- Residential 5000. Directly to the east the zoning for properties that abut N. Interstate varies from CM2 & CM3- Mixed Commercial- where commercial, apartments and religious institutions are located. The nearest park is Overlook Park approximately 800-ft. south of the site.

Infrastructure:

- **Streets** – The site has 50-feet of frontage on N. Massachusetts Avenue and 100-ft. of frontage on N. Failing Street. N. Massachusetts Avenue is classified as Local Service streets for all transportation modes per the Transportation System Plan (TSP). N. Failing Street is classified as a Neighborhood Walkway and Local Service for all other transportation modes per the TSP. Both streets have approximately 26-ft. wide paved roadway, with curbs and sidewalks within a 60-ft. right-of-way. The existing sidewalk corridor is comprised of a .5-8.5-6-2 configuration.

Nearest Transit Service: Tri-Met provides transit service directly east of the site via the Max Light rail system along N. Interstate Avenue.

- **Water Service** – There is an existing 8-inch CI water main in N. Massachusetts Avenue and no water service available in N. Failing Street within the frontage of the property under review. The existing house is served by a 5/8-inch metered service from the water main in N. Massachusetts. Water Service availability for the future lot is discussed further under Section 33.651 approval criterion.
- **Water Bureau Fire Flow Information:** The nearest fire hydrant is at N. Massachusetts Avenue north of N. Failing Street. 4710 SE Stark Street. This fire hydrant has a fire flow of 1,900 gpm at 20 psi residual.
- **Sanitary Service** - There is a public 8-inch VSP combined sewer in N. Massachusetts Avenue (BES as-built# unknown). There is no sewer available in N. Failing Street within the frontage of the property under review. Sanitary Service availability for the future lots is discussed further under Section 33.652 approval criterion.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The applicant is proposing to provide on-site stormwater management facility for the proposed development, which is discussed later in this report under 33.653.030.

Zoning: The R2.5 -Single-Dwelling -2500 designation is one of the City’s single-dwelling zones which allows a mix of housing types that are single-dwelling in character. It is intended for areas near, in, and along centers and corridors, and near transit station area. This zone serves as a transition between mixed use or multi-dwelling designations and lower density single-dwelling designations. The zone implements the comprehensive plan policies and designations for single-dwelling residential housing.

The North Interstate plan district provides for an urban level of mixed-use development to support the MAX line and the surrounding neighborhoods by encouraging development that increases neighborhood economic vitality, amenities, and services and successfully accommodates additional density. These standards: implement urban design concept of the North Interstate Corridor Plan; help ease transitions between new high-density development and the existing, low-density neighborhoods; and enhance the pedestrian experience.

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 **May 10, 2022**. 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 the following approval criteria have been met.

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	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.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supersedes 33.639).
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps, or wetlands are evident on the site
L	33.654.110.B.2 - Dead end streets	No dead-end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zone	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey (Exhibit C.1 & C.2) the site area is 5,016 square feet. The maximum density in the R2.5 zone is one unit per 2,500 square feet. The maximum density is two (2) lots. Minimum density is one unit per 5,000 square feet based

on 80 percent of the site area. The minimum density is 1 lot. The applicant is proposing 2 parcels, so the density standard is 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)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1 with existing house	3,116		50	62.3	50
Parcel 2	1,900		36	50	36

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

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

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

Findings: 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, except where an existing retaining wall is located along southeastern portion of the site where the driveway and detached garage are located. The site is not located within the Potential Landslide Hazard Area. 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 in the areas where new development on the site is anticipated. This criterion is met.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. The site is not located within a Potential Landslide hazard area or within the FEMA Special (100-year) Flood Hazard area. As indicated above, the site is relatively flat and contains no known geological hazards.

Site Development Section of BDS notes that at the time of development, a geotechnical engineer report may be required for the excavation and shoring for future development that may include a basement or new retaining walls.

The applicant proposes to remove the detached garage, as shown on existing conditions site plan (Exhibit C.2) to make Parcel 2 suitable for development. A building permit is required to demolish the existing detached garage. The demolition permit will be required to be completed prior to final plat approval. Based on these factors, there are no anticipated land suitability issues, and the new lot can be considered suitable for new development. With the condition noted above, this criterion is met.

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

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

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

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2.
- A Private Retaining Wall easement is required across the relevant portions of both parcels where the retaining wall straddles the lot line.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, 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.

33.641.020, Traffic Impacts, Approval Criterion

- A.** The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.020.B
- B.** Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

Findings: The applicant provided a written narrative (Exhibit A.1 and A.11) addressing the transportation approval criteria above.

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

The application proposes to divide the existing 5,016 square foot lot into two parcels: a 3,116 sq. ft. corner lot (proposed Parcel 1) retaining the existing home, and a 1,900 sq. ft. lot (proposed Parcel 2) behind (east) of the Parcel 1. In accordance with 33.266.110.B, on-site parking is not required. Therefore, Parcel 1 will not provide on-site parking, however Parcel 2 could, accessed from N Failing St. The proposal maximizes on-street parking availability abutting the site. The abutting streets are fully improved with a paved roadway and established pedestrian corridors. Therefore, the potential impact to neighborhood livability and on-street parking is expected to be negligible.

Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition, the new proposed parcel is projected to generate one additional morning and one evening trip, for approximately ten daily trips. The net addition of one single-family residence added to the transportation system resulting from the development will not adversely impact the operations of area intersections, as the proposed development adds negligible trips to the transportation network compared to existing volumes in the area and is consistent with the zoning of the property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area and capable of maintaining acceptable levels of service.

The subject site is located within walking distance to the Overlook Station MAX Yellow Line stop a block to the east, which has complete sidewalks and adequate crossings between the site and transit stops. For bicycles, N Concord and N Interstate are the primary north-south routes, while the streets of N Failing and N Shaver provide for the east-west connections. For Pedestrians, the abutting and nearby sidewalk network in the area is complete and provides safe passage to locations within the immediate vicinity and to local transit stops. Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes and will maintain the established pedestrian environment.

PBOT concludes the transportation system will be capable of supporting the proposed development in addition to the existing uses. Therefore, this criterion is 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 are listed below:

33.651 Water Service standard – See Exhibit E.3 and E.4 for detailed bureau comments.

The applicant's narrative (Exhibit A.1) and site utility plan (Exhibit C.1) shows the existing house will continue to utilize the existing water service from the main in N. Massachusetts Avenue and the applicant proposes to extend the water main in N. Failing Street to provide a new individual water service for future Parcel 2 within its frontage on N. Failing Street.

Water Bureau reviewed this proposal and comments summarized below:

There is no water service in N. Failing street. The nearest water service is located in N. Massachusetts.

- Parcel 1 -The existing house may continue to use the existing water service.
- Parcel 2: Water currently is not available to Parcel 2. The applicant must make arrangements to extend a new water main in Failing Street to ensure service is available to Parcel 2. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval.

With this condition, the water service standards of 33.651 have been verified

Fire Bureau has reviewed the fire flow information (Exhibit A.12) and determined the nearest fire hydrant has adequate capacity.

The water service standards of 33.651 have been verified.

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

The Bureau of Environmental Services (BES) has indicated that service is available to the site, as noted on page 3 of this report. BES reviewed the applicant's narrative (Exhibit A.1) and preliminary land division with proposed improvement and utility plan (Exhibit C.1), and comments are summarized below:

- Public 8-inch VSP combined sewer in Massachusetts Avenue

- There is no sewer available in N. Failing Street within the frontage of this property.

Service Availability: 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 a City sanitary or combined sewer. All discharge must be connected via a route of service approved by the BES Chief Engineer.

- Parcel 1 with Existing Development: According to City records, the existing structure on proposed Parcel 1 is currently connected to the sewer in N Massachusetts Avenue via a lateral located at the northwest corner of the property, which does not conflict with the property new property line.
- Proposed Development: Parcel 2 will be served by a new connection to the combined sewer in N Massachusetts Avenue through a private sewer easement across the southern portion of Parcel 1. This proposed route of sewer service is acceptable to BES. Per the [BDS Private Sewer Easements Code Guide](#), private sewer easements should be a minimum of 10-ft. in width unless specific criteria are met allowing a reduction to 5-ft., as determined by BDS. The private easement must be shown on the final plat.

A condition is required to ensure the availability of sewer service to the benefit of Parcel 2, a private sewer easement must be shown and labeled over the relevant portion of Parcel 1 on the final plat survey. The private sewer easement must be shown on the final plat survey prior to final plat approval.

With the condition noted above, BES determine the applicant's proposal for sanitary service acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal standard and approval criterion.

The sanitary sewer service standards of 33.652 have been verified. With the condition, this criterion and standard can be met.

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

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

Private Property Stormwater Management: Stormwater runoff from this project must comply with all applicable standards of the SWMM and SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. There are no public storm only sewers available to this property.

Bureau of Environmental Services (BES) reviewed the proposal and provides the following comments:

- Existing Development on Parcel 1: Per the submitted Stormwater Disposal narrative (Exhibit A.1, A9), the majority of stormwater runoff from the existing house to remain discharges to two downspouts, one at the SW corner of the porch and one at the SE corner of the house. Per the narrative, the SW corner downspout discharges stormwater to the front lawn, where it infiltrates into landscaping. The downspout at the SE corner discharges to an existing weephole in the curb in N Failing Street. These two disposal locations are acceptable and will not be impacted by the proposed new property lines. However, prior to final plat approval, the applicant must demonstrate that the remaining two downspouts will meet applicable SWMM requirements and will not be impacted by the proposed lot lines.
- Proposed Development on Parcel 2: Stormwater runoff from this project must comply with all applicable standards of the SWMM and the SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's Simplified Approach stormwater report dated 1/28/22 (Exhibit A.5), which includes Simple Pit infiltration test results of 3.5 inches per hour on this site. The applicant proposes to manage

runoff from the development onsite via a combination of ecoroof, driveway center strip, and a drywell, which can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM. This proposed conceptual stormwater management plan is acceptable to BES.

With the recommended condition of approval, BES staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the preliminary land division application against the stormwater management approval criterion

Prior to final plat approval, the applicant must either provide additional information to demonstrate that the downspouts on the north side of the house to remain on Parcel 1 discharge meeting SWMM requirements or modify these downspouts according to BES and SWMM requirements. Obtain finalized permits as necessary prior to final plat approval

With the conditions noted above the stormwater standards have been verified and criterion met.

33.654.110.B.1 Through streets and pedestrian connections

See Exhibit E.2

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.

Portland Bureau of Transportation (PBOT) findings summarized below:

The site is located at an intersection of established rights-of-way, within a typical grid-pattern of an established neighborhood and many redundant connections surrounding the property. The abutting streets are fully improved with a paved roadway and established pedestrian corridor. 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 – See Exhibit E.2 for bureau comments

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Bureau of Transportation (PBOT) comments are summarized below:

At this location N. Massachusetts Avenue is classified as Local Service streets for all transportation modes per the Transportation System Plan (TSP). N. Failing Street is classified as a Neighborhood Walkway and Local Service for all other transportation modes per the TSP.

Existing Conditions:

- **N. Massachusetts Avenue:** Massachusetts Avenue is improved with approximately 26-ft. paved roadway with curbs and sidewalk within a 60 ft. wide right-of-way. The sidewalk corridor consists of a 0.5-8.5-6-2 configuration.
- **N. Failing Street:** Failing street is improved with a 26-ft. wide paved roadway, with curbs and sidewalks within a 60-ft. right-of-way. The existing sidewalk corridor comprised of a 0.5-8.5-6-2 configuration.

Standard Improvements:

For a Neighborhood Walkway/Local Service Street in the R2.5 zone and in a Pedestrian District, the City's Public Streets and Connections document (TRN 1.09) recommends a 12-ft. wide pedestrian corridor with a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 0.5-ft frontage zone. The existing pedestrian corridor exceeds the City standards; therefore, no dedication or frontage improvements are required. Per PBOT policy, with both frontages are allowed to remain, the abutting corner is not required to be reconstructed.

PBOT determined the existing street system will be capable of serving the existing users and proposed new development within this neighborhood. This criterion is met.

33.654.120.H- Street Trees – See Exhibit E.6 for specific detail from Urban Forestry

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

Existing Street Conditions:

- N. Massachusetts Avenue.: The site has approximately 50 ft. of street frontage. The right-of-way is improved with pavement, curbs, planting strip, and sidewalks. There are no overhead high voltage power lines. There are no street trees along this frontage.
- N. Failing Street : The site has approximately 100-ft. of street frontage. The right-of-way is improved with pavement, curbs, planting strip and sidewalk. There are no overhead high voltage power lines. There are three street trees along this frontage. Three young walnut 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). Street trees must be retained and preserved and may not be removed unless permitted by Urban Forestry. Street trees must be planted at a minimum of 1.5 caliper inches and be a species chosen from an approved street tree list. Street tree planting may be exempt under 11.50.060.B when existing above or below utilities prevent planting street trees or when the existing planting strip is less than 3-feet wide. Street trees are required to be retained and planted through public works permit or building permit or prior to final plat approval.

Urban Forestry comments are summarized below (See Exhibit E.6 for specifics):

There are no street trees along N. Massachusetts Avenue. Two street trees are required to be planted adjacent to Parcel 1 on N Massachusetts frontage as a condition of the land division and must be planted prior to final plat approval.

Prior to the lot division there will be 100 feet of frontage on N Failing allowing four street to be required during development. After the proposed lot division only, the lots will be 68 and 32 feet which will only allow for a maximum of three street trees. Therefore, under code, a fee of \$675.00 in lieu-of-planting is required for the trees that cannot be planted. (Loss of one planting spot at \$450 per inch x 1.5 inches). Due to the new lot line configuration a fee-in-lieu of planting is required for loss of one available street tree planting location. This fee-in-lieu for the loss of one available street tree planting space must be paid prior to final plat approval.

With the conditions noted above, Urban Forestry has no objections to this land division proposal.

With the conditions noted above, 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.

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

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

- Minimum Setbacks (33.110.220) -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. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- Building Coverage (33.110.225) -Building Coverage is defined as the area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than 6 feet above grade at any point, and that provides an impervious cover over what is below. Building coverage also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than 6 feet above grade. Eaves up to 2 feet in depth are not included in building coverage. Some features of the existing house, including a bay window on the south elevation, are not shown on the site plan and must be included in building coverage. Therefore, to ensure that this standard continues to be met for the house on its new lot at the final plat stage, the final plat must include a supplemental survey that reflects the complete building (covered porches, bay windows etc.) and surveyor must provide the total building coverage for the existing house.
- Outdoor Area (33.110.235) – The existing house identified to remain on the site must continue to meet the required Zoning Code for required continuous outdoor area (200 s.f. & a minimum dimension 10-ft. x 10-ft.) requirement. Therefore, to ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing this standard will continue to be met for the existing house on Parcel 1.
- Accessory Structures (33.110.250.B.3)- In this zone, accessory structures are not allowed on a lot without a primary structure and the existing detached garage will no longer meet setback requirements on the new proposed lot. The applicant has proposed to remove the detached garage. Therefore, for Parcel 2 to meet this standard, the existing accessory structure(detached garage) on future Parcel 2 must be removed prior to final plat. A building permit is required to demolish it. The demolition permit must be obtained and receive all inspection and a final prior to final plat approval. The supplemental survey at the time of final plat submittal will also document the detached accessory structure has been removed. To ensure that this standard is met, a condition of approval is necessary.

- On-site Parking (33.266.110) and Standards for Parking Area Locations (33.266.120.B-D): Due to the land division, the parking space for the existing house will be located on a different lot. No parking is required for Household Living uses in the single-dwelling zones. The applicant proposes to remove the existing detached garage which provides the existing on-site parking. No new on-site parking is being proposed for the existing house being retained on Parcel 1. To ensure compliance with the parking area location and vehicle paving limitation, the existing driveway and curb-cut that leads to the on-site parking space within the existing garage must be removed completely or altered at the time of residential development on Parcel 2. With this condition, this standard will be met at the time of future development on Parcel 2.
- Location and Height of Fences (33.110.255): The maximum allowed fence height within the front setback is 3 ½ feet. The existing fence along N. Failing Street within the frontage of Parcel 2, exceeds this allowance and will need to be altered or removed prior to final plat approval. To ensure this standard is met, a condition of approval is necessary at the time of final plat stage. Please refer to the measurement Section 33.930.050.B for how fences are measured when on top of a retaining wall.
- Location and Height of Retaining Walls (33.110.280): A retaining wall may only be less than four feet high, as measured from the bottom of the footing, within the first 10-ft. of the front lot line abutting the street. If the retaining wall exceeds the height limitation on Parcel 2, then the wall must be altered or removed to meet the standard. Additionally, if the retaining wall will remain, then a private retaining wall easement and maintenance agreement will be required to address the maintenance of the retaining wall, since the retaining wall will straddle the lot line between the two parcels. To ensure this standard is met, a condition of approval is necessary at the time of final plat stage.

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.

- **Building Code (2017 Oregon Residential Specialty Code (ORSC)):** A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances. The applicant is proposing to remove the existing detached accessory structure (garage) on the site. The detached accessory structures is greater than 200 s.f. and greater than 10-ft. tall and therefore requires a building permit to be removed.

There is a retaining wall on the site, to ensure building code requirements continue to be met after the land division, the Life Safety Section of BDS requires additional information regarding the height of this retaining wall prior to final plat approval. Depending upon the height of the retaining wall determine if a building code requirement will be required to be met, prior to final plat approval. To ensure the building code requirements are met for the existing retaining wall a condition is required at the final plat stage.

- **Fire Bureau Requirements (Title 31 & Fire Bureau Policy):** The applicant must meet the requirements of the Fire Bureau in regard to addressing requirements and fire apparatus access, including aerial access at the time of development. These requirements are based on the technical standards of Title 31 and the Portland Fire Code (see Exhibit E.4 for specifics).
- **Driveway and Curb Cuts (Title 17- Section 17.28):** Curb cuts and driveway construction must meet the requirements in Title 17.28.110 and TRN 10.40. The driveway requirements will be enforced during the review of building permits. The proposal is to close the existing driveway approach and relocated it west to be contained on Parcel 2. The proposed driveway is dimensioned as 9-ft wide, which is the minimum driveway width. No driveway is proposed for Parcel 1. As proposed, the driveway meets the requirements 17.28.110 and TRN 10.40.

CONCLUSIONS

The applicant has proposed a two-parcel partition with the existing house being retained on Parcel 1, 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. To ensure that the existing house being retained on Parcel 1 will remain in conformance with Title 33 development standards (setbacks, building coverage, fence height, retaining wall height etc.) additional information will be required on the supplemental survey at the time of final plat. To make future Parcel 2 suitable for development, the existing detached accessory structure (garage) will be removed from Parcel 2. The fence along Parcel 2's street frontage will be required to be removed or altered meet the maximum height requirement of 3 ½ feet. Additional information about the height of the existing retaining wall is required at the time of final plat for Land Use staff and also the Life Safety Section of BDS. The height of the retaining wall may determine if building code requirements will apply if the retaining wall will need to be removed or altered. The existing driveway will be altered or removed at the time of residential development on Parcel 2.

A water main extension is required to provide water service to Parcel 2, which requires plans and financial assurances to be submitted to Water Bureau. Sanitary service to Parcel 2 will be provided via a private sanitary easement over Parcel 1. This private sanitary easement must be shown on the final plat survey to ensure legal access to the public sewer main in N. Massachusetts Avenue. A maintenance agreement will be required for this private sanitary easement and elements within it. Bureau of Environmental Services requires the additional information regarding stormwater management for the existing house being retained on Parcel 1 to ensure SWMM requirements will be met on the new lot configuration. Urban Forestry requires two street trees to be planted within planting strip on N. Massachusetts

Avenue and also payment into the tree fund for the loss of one available street tree planting space along N. Failing street due to the land division.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition, that will result in two residential lots as illustrated with Exhibit C.1 and subject to the following conditions:

A. Supplemental Plan. One copy of an additional supplemental survey plan shall be submitted with the final plat survey for Land Use Review Section of BDS, Bureau of Environmental Services (BES), Life Safety 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:

- Any buildings (including minor projections i.e. eaves, baywindows etc..) 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.
- Document the removal of the detached garage (accessory structure).
- The height of existing retaining wall must be provided by the surveyor (measured from the bottom of the footing).
- 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. If the existing retaining wall will remain on Parcel 2, then an easement for the shared retaining wall must be shown over the relevant portions of Parcels 1 and 2 and labeled on the final plat survey.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.6 & C.7 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:

Utilities

1. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in N. Failing Street.

Existing Development

2. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
3. The applicant must obtain a finalized demolition permit for removal/demolition of the detached accessory structure (garage) on Parcel 2.
4. If the retaining wall will need to be modified to be in conformance with Title 33 Zoning Code Section 33.110.280.B or building code requirements, then the applicant

shall obtain a BDS permit (zoning/residential) to alter or remove the retaining wall to the satisfaction of BDS Land Use Section and Life Safety Section of BDS. The permit plans must include the note “*This permit fulfills requirements of Condition C.4 of LU 22-115212 LDP* “. This condition must be met to the satisfaction of the Life Safety Section of BDS

5. The applicant must meet the requirements of Urban Forestry to plant two (2) street trees in the planter strip on N. Massachusetts Avenue adjacent to Parcel 1. An Urban Forestry Permit is required to plant these two street trees. The applicant must contact Urban Forestry at 503-823-TREE (8733) prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Private Sewer Easement as 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.
7. If the existing retaining wall will remain on Parcel 2, then a Maintenance Agreement shall be executed for the Private retaining wall easement as described in Condition B.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any retaining wall 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.

Other requirements

8. The applicant must pay into the City Tree Preservation and Planting Fund (the amount equivalent to 1.5 inches of trees), for the loss of one available street planting space. Payment into the Tree Preservation and Planting Fund (Street Trees – Fee in Lieu Planting and Establishment) must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau, prior to final plat approval.

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

1. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
2. At the time of residential development of Parcel 2, the existing driveway must be removed or altered to be in compliance with the parking area locations stated in 33.266.120.C.

Staff Planner: Lois Jennings

Decision rendered by:  **on June 24, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed June 28, 2022

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 18, 2022 and was determined to be complete on May 3, 2022.

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 18, 2022.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: August 31, 2022.**

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.

If you are interested in viewing the information in this file, please contact the planner on the front of the notice. The planner can e-mail you documents from the file. 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. Copies of all information in the file can be obtained for a fee equal to the cost of services. A public records request [How to Request Public Property Records from Development Services | Portland.gov](#) Additional information about the City of Portland, city bureaus is available online at <https://www.portland.gov> and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/zoningcode> .

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final

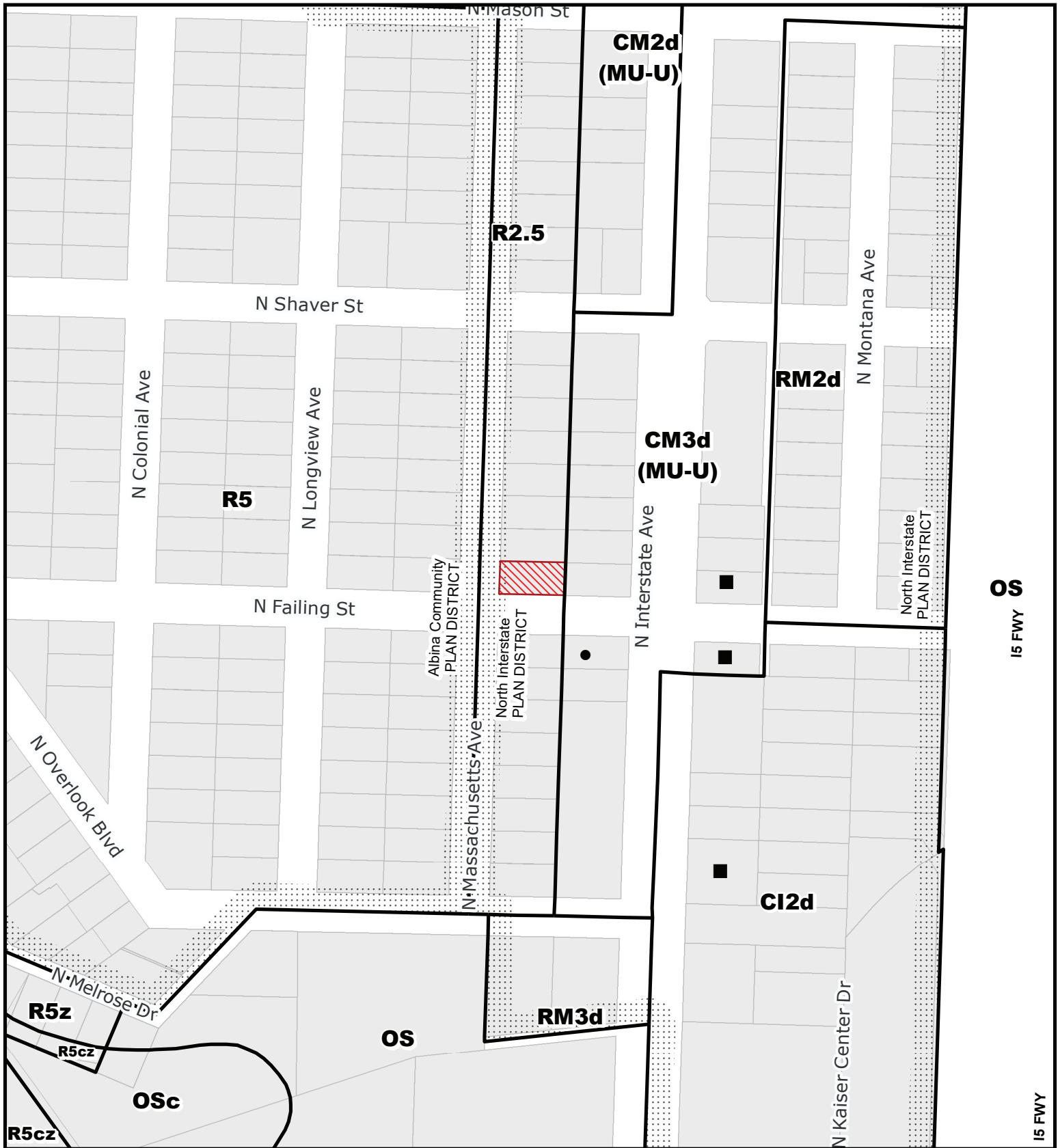
plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative addressing approval criteria
 - 2. Legal document for name change
 - 3. Future Development elevations and floor plan
 - 4. Proposed site plan for future development
 - 5. SIM form for stormwater
 - 6. Existing Condition Survey with land division plan
 - 7. Clearing and Grading Plan
 - 8. Applicant's e-mail 05.03.22 response to incomplete letter
 - 9. Stormwater narrative submitted 05.03.22
 - 10. Revised Existing Conditions Survey with land division proposal submitted 05.03.22
 - 11. Narrative addressing transportation impact approval criteria submitted 05.03.22
 - 12. Fire Flow information submitted 05.03.22
 - 13. Schematic elevations and floor plan of existing house submitted 05.03.22
 - 14. Revised application form with all owner's information submitted 05.03.22
 - 15. Revised land division plan with future conceptual improvements and utility site plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division with conceptual improvement and utility site Plan (attached)
 - 2. Existing Conditions with land division proposal
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
 - a. Revised Life Safety Section of BDS memo
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement
 - 3. Incomplete Letter dated March 17, 2022
 - 4. Revised LU Application form with all required information submitted 05.03.22

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



For Zoning Code in effect Post August 1, 2021

NORTH INTERSTATE PLAN DISTRICT



Site



Conservation Landmarks



Historic Landmark

File No. LU 22 - 115212 LDP

1/4 Section 2629

Scale 1 inch = 200 feet

State ID 1N1E22CC 9500

Exhibit B Feb 22, 2022



LEGEND

- CATCH BASIN
- CAVITY CONNECT
- COMBINED SEWER MANHOLE
- DECORATIVE SHRUB
- DOWN SPOUT
- FENCE POST
- FIRE HYDRANT
- GAS METER
- POWER METER
- POWER POLE
- STREET SIGN
- WATER METER
- WATER VALVE
- CONCRETE SURFACE

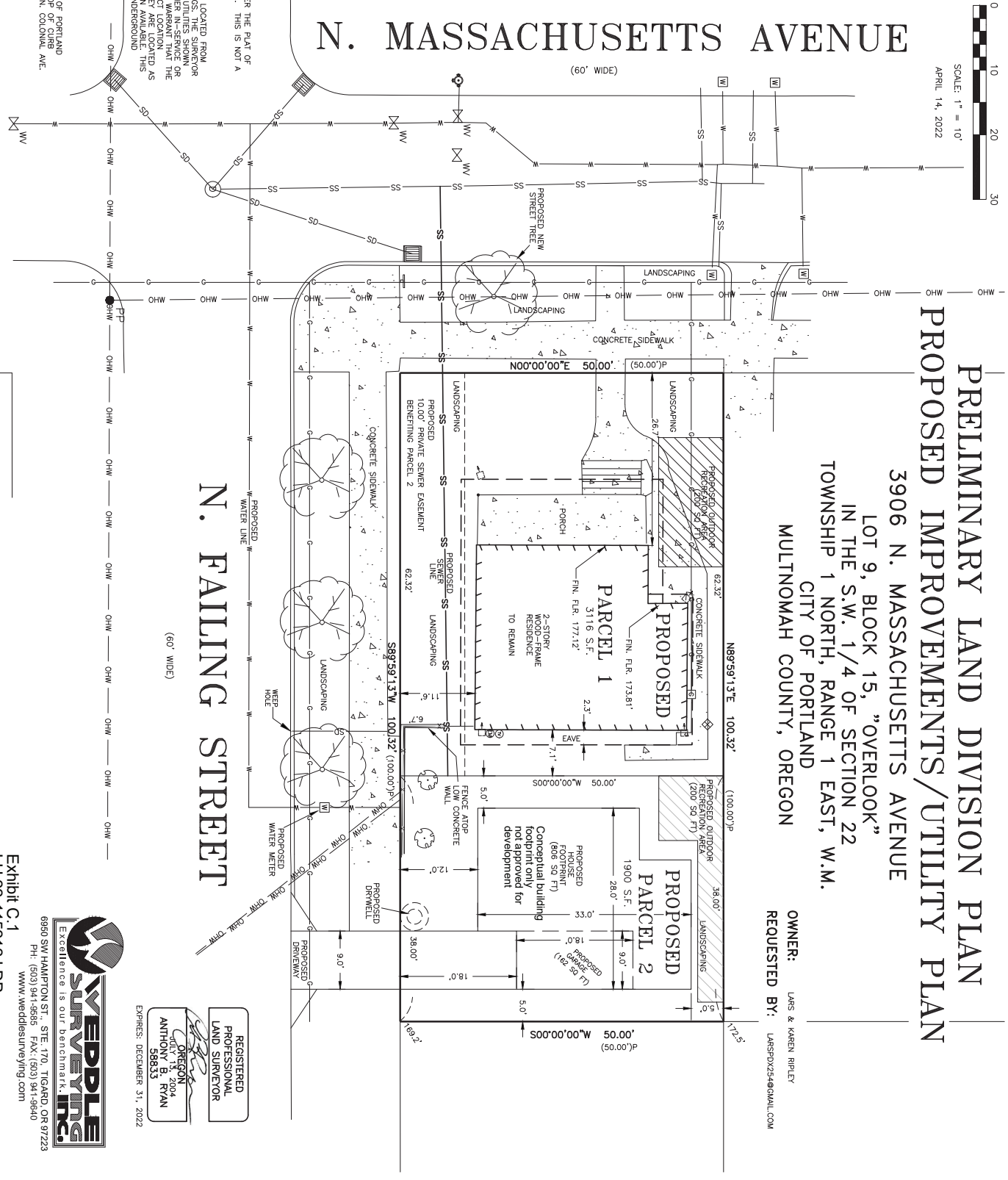
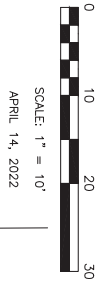
- BUILDING EAVE
- BUILDING FOOTPRINT
- COMBINED SEWER
- FENCE
- GAS
- OVERHEAD WIRE
- STORM DRAIN
- WATER

SURVEYOR'S NOTES

1. THE BASIS OF BEARINGS FOR THIS SURVEY IS PER THE PLAT OF FORECORN, MULTNOMAH COUNTY PLAT RECORDS. THIS IS NOT A RESURVEYED BOUNDARY SURVEY.
2. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND RECORD DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN-SERVICE OR UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THIS SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

BENCHMARK

THE BENCHMARK USED FOR THIS PROJECT IS CITY OF PORTLAND BENCH MARK 175.274' AT THE INTERSECTION OF N. OVERLOOK BLVD AND N. COLONIAL AVE. ELEVATION: 175.274'. CITY OF PORTLAND DATUM.



**PRELIMINARY LAND DIVISION PLAN
PROPOSED IMPROVEMENTS/UTILITY PLAN**

3906 N. MASSACHUSETTS AVENUE
LOT 9, BLOCK 15, "OVERLOOK"
IN THE S.W. 1/4 OF SECTION 22
TOWNSHIP 1 NORTH, RANGE 1 EAST, W.M.
CITY OF PORTLAND
MULTNOMAH COUNTY, OREGON

OWNER: JANS & KAREN RIPLEY
REQUESTED BY: LARS@PDX245@GMAIL.COM

N. FAILING STREET
(60' WIDE)

N. MASSACHUSETTS AVENUE
(60' WIDE)

REGISTERED PROFESSIONAL LAND SURVEYOR
ANTHONY B. RYAN
58833
EXPIRES: DECEMBER 31, 2022



Exhibit C.1
LU 22-115212 LDP

JOB NO. 6231