



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868

www.portlandoregon.gov/bds

Date: May 15, 2014 To: Interested Person

Kate Green, Land Use Services From:

503-823-5868 / Kate.Green@portlandoregon.gov

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

The Bureau of Development Services has **approved** a proposal in your neighborhood. The 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 14-111263 LDP

GENERAL INFORMATION

Applicant: Kevin Partain/Urban Visions

> 223 NE 56th Avenue Portland OR 97213

Property Owners: Anita M Palmer

3405 NE 15th Avenue Portland OR 97212

Elizabeth Whitfield and Anna M Ellis

57 NE Morris Street Portland OR 97212

Site Address: 4307-4309 NE 7TH AVENUE

Legal Description: BLOCK 3 LOT 7, LINCOLN PK ANX

Tax Account No.: R497300420, R497300420

State ID No.: 1N1E23CB 02900, 1N1E23CB 02900

Ouarter Section: 2631

Neighborhood: King/Leigh Rappaport/ 503-490-8388

North-Northeast Business Assoc/ Joice Taylor/ 503-445-1321 **Business District: District Coalition:** Northeast Coalition of Neighborhoods/ Claire Adamsick/503-388-

9030

Single Dwelling Residential 2,500 (R2.5) Zoning:

Alternative Design Density (a) overlay

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 proposes a **Land Division-Partition** to divide a 5,000 square foot lot into two 2,500 square foot parcels for detached houses. The existing house is to be removed.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or

services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create 2 units of land (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 5,000 square foot site is a corner lot, which is developed with a duplex that was constructed in 1911. The bulk of the site is about 2 to 3 feet above the abutting sidewalk grade. There is an approximately 3-foot tall retaining wall around an onsite parking area along the west side of the site. No large trees are located on the property. The site is located in an established residential neighborhood with a well developed grid street pattern. There is a mix of employment and higher density residential zoned properties located approximately 600 feet to the west, along MLK Boulevard. Otherwise all other nearby properties to the north, east, and south are in single-dwelling residential zones.

Infrastructure:

■ **Streets** – The site has approximately 50 feet of frontage on NE 7th Avenue, and approximately 100 feet of frontage on NE Skidmore Street. At this location, both streets are classified as City Bikeways and Local Service Streets for all other modes in the *Transportation System Plan* (TSP). Both streets are improved with 10-foot sidewalk corridors with a 3-6-1 configuration. Parking is allowed on both sides of the streets. There is one driveway near the southwest corner along SE Skidmore that serves the existing house.

Tri-Met provides transit service approximately 600 feet west of the site along MLK Boulevard via Bus Line 6.

- Water Service There is an existing 6-inch CI water main in NE Skidmore Street. There is also an existing 8-inch CI water main in NE 7th Avenue, and the existing duplex is served by a 5/8-inch metered service from this main. It may be possible to reuse this connection for a new house on Parcel 1, subject to the regulations of the Water Bureau. A new service from the line in NE Skidmore will be required at the time of new development on Parcel 2.
- Sanitary Service There is an existing 8-inch VSP public combination sewer line in NE 7th Avenue, and an 8-inch PVC public combination sewer located in the south side of NE Skidmore Street. The existing duplex has a service to the sewer in NE 7th Avenue. It may be feasible to reuse this connection for future development on Parcel 1, subject to BES requirements. A new lateral for Parcel 1 will be required at the time of development to the sewer in SE Skidmore.

Zoning: The site is located in a *Single Dwelling Residential 2,500 (R2.5)* zone. This is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households.

The site is also has an *Alternative Design Density (a)* overlay. This overlay encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the *a-overlay* provisions.

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 **March 28, 2014.** No written responses have been received.

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:		
В	33.630 – Tree Preservation	No significant trees or trees in excess of 6 inches in		
		diameter are located fully on the site or outside of		
		the environmental zone on the site.		
С	33.631 - Flood Hazard Area	The site is not within the flood hazard area.		
D	33.632 - Potential Landslide	The site is not within the potential landslide hazard		
	Hazard Area	area.		
E	33.633 - Phased Land Division or	A phased land division or staged final plat has not		
	Staged Final Plat	been proposed.		
F	33.634 - Recreation Area	The proposed density is less than 40 units.		
Н	33.636 - Tracts and Easements	No tracts or easements have been proposed or will		
		be required.		
J	33.640 - Streams, Springs, and	No streams, springs, or seeps are evident on the site		
	Seeps	outside of environmental zones.		
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.		
	33.654.110.B.3 - Pedestrian	The site is not located within an I zone.		
	connections in the I zones			
	33.654.110.B.4 - Alleys in all	No alleys are proposed or required.		
	zones			
	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	There are no pedestrian connections proposed or		
	Connections	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	No public dead-end streets or pedestrian		
	dead-end streets and pedestrian	connections exist that must be extended onto the		
	connections	site.		
	33.654.130.C - Future extension of	No dead-end street or pedestrian connections are		
	dead-end streets and pedestrian	proposed or required.		
	connections			
	33.654.130.D - Partial rights-of-	No partial public streets are proposed or required.		
	way			

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. Minimum density for the 5,000 square foot lot is one unit and the

maximum density is 2 units. The applicant is proposing 2 parcels for detached houses. Therefore, the density standards are met.

The required and proposed lot dimensions 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	2,500		50	50	50
Parcel 2	2,500		50	50	50

^{*} 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.

As noted in the site description above, the majority of the site is approximately 2 to 3 feet higher than the abutting sidewalk grades, but the site is otherwise flat and is not located within the Potential Landslide Hazard Area.

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing duplex and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. Additionally, as noted in the response from Site Development, the demolition permit for the existing structure shall include the compaction of structural fill for the excavation left by the removal of the basement. Otherwise, no significant clearing or grading will be required on the site to make the new lots developable, and no trees are required to be preserved.

Site Development has also noted that although the site is currently connected to the public sanitary sewer, in the past, the site was served by a cesspool. Nevertheless, based on city records, Site Development has indicated the cesspool is located on the property to the north, so cesspool decomissioning will not be required for this land division proposal.

With the noted conditions, the new parcels can be considered suitable for development, and this criterion will be met.

I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.

Findings: The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

Parcel 1 will be a corner lot on the northwest corner of the intersection. Parcel 2 will be on the north side of an east-west oriented street, and is considered an interior lot. In this situation, the standards call for the corner parcel to be the narrowest. However, both parcels have the same width. This lot configuration affords a more uniform lot pattern, which is consistent with the purpose of the lot dimension standards in Chapter 33.612. Those other requirements supersede 33.639; therefore, the solar access criteria do not apply.

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. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

Portland Transportation evaluated the proposal and provided the following (see Exhibit E.2 for complete details):

Street Capacity and Levels of Service

The proposal will result in a net increase of 1 single-family residence. This residence can be expected to generate 10 daily vehicle trips with 1 trip occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

Connectivity

The site is a corner lot. Connectivity requirements do not apply.

Vehicle Access/Loading

The new lot will have a driveway to provide access to parking and loading.

On-Street Parking Impacts

The new lot will have at least one on-site parking space with an additional space between the garage and the front property line. Impacts to the on-street parking supply should be minimal.

Availability of Transit

Tri Met Bus Line #44 is available to serve the site 0.4 miles to the west at N Williams and N Freemont.

Neighborhood Impacts

The site is being developed with a new single-family residence in compliance with the existing R2.5 zoning. In addition, standard frontage improvements including sidewalks will reduce the potential for conflicts between pedestrians and vehicles.

Safety for All Modes

Sidewalks along both sides of the area streets provide adequate pedestrian facilities. Give the low vehicle speeds and volumes on NE 7^{th} and NE Skidmore, cyclists can safely share the roadway.

Based on these factors, Portland Transportation notes no objections to the proposal. Based on these factors, 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 and standards are met as shown in the following table:

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

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. However, as a result of the proposed land division, the water line that provides service to the existing duplex will no longer be located entirely on the same lot as that structure. Title 21 requires that the water service connection be located along the frontage of the lot to be served. In this case, the existing duplex will be removed. Provided the demolition permit for the existing house is finaled, prior to final plat, the water service lines will not cross the property boundaries. With a condition to ensure implementation of this requirement, the water service standards of 33.651 will be satisfied.

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

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

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

No stormwater tract is proposed or required. The applicant has proposed to install individual drywells on each parcel. BES has reviewed the applicant's stormwater report and has noted no objections to the proposed stormwater management method. BES notes that drywells are regulated by Oregon Department of Environmental Quality (DEQ), and it is the applicant's responsibility to register the drywells with DEQ, as appropriate.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is meets the noted spacing requirements, and both frontages are improved with public sidewalks, so no additional street or pedestrian connections are warranted. As such, this criterion is met.

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

As noted in the response from Portland Transportation, the applicant obtained approval of a Public Works Alternative Review (14-118530), which will allow the applicant to leave the existing sidewalk corridor configuration in place. Portland Transportation notes that no improvements are required to the existing rights-of-way. As such, this criterion is met.

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

At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. 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. As such, this criterion will be met.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing Development: The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance with any development standard applicable in the R2.5 zone. With the conditions noted above requiring documentation of the removal of the existing structures, 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	Title 24 – Building Code, Flood plain		
www.portlandonline.com/bds	Title 10 – Erosion Control, Site Development		
	Administrative Rules for Private Rights-of-Way		
Environmental Services/503-823-7740	Title 17 – Sewer Improvements		
www.portlandonline.com/bes	2008 Stormwater Management Manual		
Fire Bureau/503-823-3700	Title 31 Policy B-1 – Emergency Access		
www.portlandonline.com/fire			
Transportation/503-823-5185	Title 17 – Public Right-of-Way Improvements		
www.portlandonline.com/transportation	Transportation System Plan		
Urban Forestry (Parks)/503-823-4489	Title 20 – Street Trees and other Public Trees		
www.portlandonline.com/parks			
Water Bureau/503-823-7404	Title 21 - Water availability		
www.portlandonline.com/water			

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.

- Fire Bureau: The applicant must meet the requirements of the Fire Bureau in regards to fire flow, water supply, number of hydrants, addressing of structures, and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- Urban Forestry: The applicant must meet the requirements of Urban Forestry for street tree planting at the time of development. Existing street trees must be protected and preserved. These requirements are based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are:

- Demolition permits, including capping sewer and water lines and structural fill for the basement
- Fire Bureau requirements

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 2 standard parcels, as illustrated with Exhibit C.1, subject to the following conditions:

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

Utilities

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 C of the Fire Code is met, an exception is used, or provide an approved Fire Code Appeal.

Existing Development

- 2. A finalized permit must be obtained for demolition of the existing duplex residence on the site and capping the existing sanitary sewer and water connections. Note that Title 24 requires a 35-day demolition delay period for most residential structures.
- 3. The demolition permit for the existing structure shall include the compaction of structural fill for the excavation left by the removal of the basement to the satisfaction of Site Development.
- B. The following conditions are applicable to site preparation and the development of individual lots:
- 1. The applicant must meet the addressing requirements of the Fire Bureau.
- 2. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Kate Green

Decision rendered by:

Vinity Tallant
on May 13, 2014

By authority of the Director of the Bureau of Development Services

Decision mailed May 15, 2014

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 January 29, 2014, and was determined to be complete on **March 25, 2014**.

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 January 29, 2014.

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 extended by the applicant, the 120 days will expire on: July 24, 2014.

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 Assessor's 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.

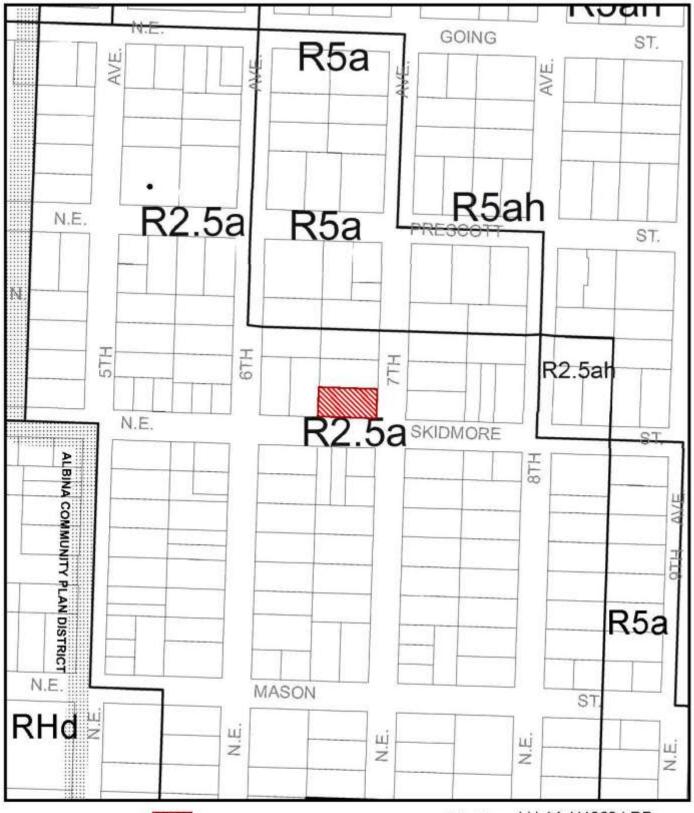
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Supplemental Narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Conceptual Development/Lot Layout Site Plan (attached)
 - 2. Existing Conditions Site Plan
 - 3. Conceptual Grading Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services

- 2. Portland Transportation
- 3. Water Bureau
- 4. Fire Bureau
- 5. Site Development/BDS
- 6. Life Safety/BDS
- 7. Urban Forestry
- F. Correspondence: (none submitted)
- G. Other:
 - 1. Original LU Application
 - 2. Letter to applicant re: incomplete application

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 Site

Historic Landmark



LU 14-111263 LDP File No. 2631 1/4 Section 1 inch = 150 feet Scale. 1N1E23CB 2900 State_Id (Feb 03, 2014) Exhibit.

PROPOSED DEVELOPMENT PLAN

