



City of Portland, Oregon
Bureau of Development Services
Land Use Services

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Date: July 30, 2010
To: Interested Person
From: Sue Donaldson, Land Use Services
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NOTICE OF A TYPE I 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 this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 10-101162 LDP

GENERAL INFORMATION

Applicant: Ivan and Lyubov Ryabchuk,
1005 NE 72nd Ave
Portland, OR 97213-6211

Representative: Edward Ozeruga,
Po Box 11778
Portland, OR 97211

Site Address: 1005 NE 72ND AVE

Legal Description: BLOCK 9 LOT 1-3, BRAINARD
Tax Account No.: R097102580
State ID No.: 1N2E32AC 09100
Quarter Section: 2938

Neighborhood: Montavilla, contact Sandra McDaniel at 503-754-4099.
Business District: Eighty-Second Avenue, contact Ken Turner at 503-484-6225.
District Coalition: Southeast Uplift, contact Leah Hyman at 503-232-0010.

Other Designations: None

Zoning: R5a Single Dwelling Residential 5000 with Alternative Design Density Overlay

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

Proposal:

Applicant is proposing to divide an 11,006 square foot site into two parcels for detached houses. Parcel 1, where the existing house will remain, will be 7,110 square feet and Parcel 2 will be 3,870 square feet.

This partition is reviewed through a Type I 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 with a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (*such as an Adjustment or Design 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 (parcels) of land. Therefore this land division is considered to be 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 33.660.120 Approval Criteria for Land Divisions in Residential and Open Space Zones*.

ANALYSIS

Site and Vicinity:

There is a house on the site with garage at the rear. The surrounding area is developed with detached houses on lots approximately 5000 square feet. There is one duplex at corner of 72nd Avenue and Hassalo Street. The block pattern in this area is relatively small - approximately 230 feet by 340 feet, so there is reasonable connectivity. Wilcox School is located one and a half blocks south and east of the site.

Zoning: The site is zoned R5, High-Density Single-Dwelling Residential with an “a” or Alternative Design Density Overlay. The R5 zone requires an average lot area of 5,000 square feet, with a maximum allowed density of one unit per lot (generally 8.7 units per acre.) The “a” Overlay Zone allows opportunities for increased residential density in certain situations. The overlay zone does not apply to this situation.

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

Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **March 24, 2010**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of 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.

The relevant criteria are found in *Section 33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones*. 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 applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability & Findings
A	33.605-612	Lots	Applicable - See findings below
B	33.630	Trees	Not Applicable – There are no trees on the site
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within a Potential Landslide Hazard Area

Criterion	Code Chapter	Topic	Applicability & Findings
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635.100 33.635.200	Clearing & Grading Land Suitability	Applicable - See findings below Applicable - See findings below.
H	33.636	Tracts & Easements	Not applicable – there are no easements or tracts
I	33.639	Solar Access	Applicable - See findings below
J	33.640	Streams, Springs, & Seeps	Not applicable – There are no streams, springs, or seeps on the site
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services & Utilities	Applicable - See findings below

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. These density and lot dimension requirements ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing. Maximum allowed densities in the R5 zones can be found in Table 610-1. The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, and the site is **not** within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = $(11,006 \text{ square feet} \times .80) \div 5,000 \text{ square feet} = 1.76$, which rounds up to a minimum of 2 lots (per 33.930.020.A)

Maximum = $11,006 \text{ square feet} \div 5,000 \text{ square feet} = 2.2$, which rounds down to a maximum of 2 lots (per 33.930.020.B).

This criterion is met because the applicant is proposing two lots which meet the minimum and maximum density requirement.

Lot Dimensions

The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate

access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

	R5 Zone Requirement	Proposed Parcel	Proposed Parcel 2
Minimum Lot Area	3,000 sq. ft.	7,110 sq. ft.	3,870 sq. ft.
Maximum Lot Area	8,500 sq. ft.		
Minimum Lot Width*	36 ft.	56.6 ft	30.9 ft
Minimum Lot Depth	50 ft.	125.2 ft	125.2 ft
Minimum Front Lot Line	30 ft.	30 ft.	30.9 ft.

- *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.*

Narrow Lots

Parcel 2 is 30.9 feet wide — narrower than the minimum width of 36 feet for the R5 zone, as shown in the table above. *Section 33.610.200.D* of the Zoning Code, however, allows narrower lots if the future development can meet the following regulations:

- On balance the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations.*

Findings:

Parcel 2 is a regular shape, is 125 feet deep and approximately 4 feet narrower than a standard R5 lot. Therefore it is consistent with the R5 zone. It cannot be subdivided further because it is just 850 square feet larger than the minimum lot area. The applicant's site plan, Exhibit C-2, shows a conceptual building footprint with side setbacks of 5 feet and 6 feet, which allow a house on the lot to be 20 feet wide. There is an area behind the house that is larger than the required outdoor area (*250 square feet and at least 12 feet by 12 feet*). The lot has street frontage on NE 72nd Avenue and services are available to serve the new parcel (see Exhibits E). With the building footprint shown, there is not enough room for a garage to be incorporated into the front façade but there is enough room for a vehicle parking space in the front setback. The lot is of a size and configuration that will allow development that is consistent with the R5 zone. Therefore Parcel 2 meets the purpose of the lot dimensions and this criterion is met

- The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet.*

Findings: A detached house is proposed on Parcel 2, which is 30.9 feet wide. Therefore this standard is met.

- If the lot abuts an alley, then vehicle access is allowed only from the alley. This requirement will be imposed as a condition of approval of the land division.*

Findings: The lot does not abut an alley.

- Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.E at the time of development*

Findings: An attached garage is not allowed as part of the front façade of house that is less than 22 feet wide. There is sufficient room for one vehicle parking space in front of the house. Required parking is not allowed in a required 10 foot front setback and no more than 40 percent of the land area between the front lot line and the front building line may be paved or used for vehicle areas (*33.266.120.C.1 & 3 Parking Locations*). Exhibit C-2 shows a 35 foot front setback so one parking space could be accommodated in front of the house and not within the front setback area.

- Lots that will be developed with attached houses must be configured so that 60 percent of the area between the front lot line and the front building line can be landscaped at the time of development;*

Findings: Attached housing is not proposed so this standard does not apply.

- f. In areas where parking is not required by this Title, lots may be proposed that will not accommodate on-site vehicle access and parking. Such lots do not have to meet the requirements of code section 33.610.200D. As a condition of approval of the land division, the property owner must execute a covenant with the city.*

Findings: The site is not within 500 feet of 20-minute transit service. Therefore one parking space is required.

As discussed in the findings above the dimensions of the proposed parcels are consistent with the purpose of the Lot Dimension Regulations and the applicant has shown that development on Parcel 1 can meet the regulations for narrow lots. 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.

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;*
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;*
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;*
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and*
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.*

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. 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 lot 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.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate 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 in order to make the lots suitable for their intended uses and the provision of services and utilities.

Findings: The site is currently in residential use, and there is no record of any other use in the past. Site Development commented on a soakage trench serving the existing house that would become part of Parcel 2. The trench has been decommissioned (see Exhibit E-5). 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.

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.

The solar access criteria are applied to proposed lots based on the orientation of the streets, as described below.

33.639.100, Solar Access Approval Criteria

On streets that are within 30 degrees of a true east-west axis, the narrowest lots should be interior lots on the south side of the street and corner lots on the north side of the street.

On streets that are within 30 degrees of a true north-south axis, the widest lots should be interior lots on the east or west side of the street.

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. In this case the site fronts on NE 72nd Avenue, which is a north-south street. Both of the proposed lots are on the west side of the street, and are considered interior lots (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots. This criterion is therefore met.

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

The relevant approval criteria of Chapter 33.641 are listed below:

33.641.020 The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. *Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.*

33.641.030 The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. *Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.*

Findings: The regulations above require the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary.

The site has 86.7 feet of frontage on NE 72nd Avenue which at this location is designated as a Local Service Street in the Transportation System Plan. The nearest bus stops are approximately 1,400 feet north on NE Halsey Street (#77) and the same distance south on NE Glisan Street (#19). There is one driveway entering the site that provides access to off-street parking for the existing house.

NE 72nd Avenue has a 20-foot wide curb -to-curb paved surface within a 50-foot public right-of-way. Parking is currently allowed only on the east side of NE 72nd Avenue. The existing improvements on NE 72nd Avenue include curbs, an 8-foot planting strip between the curb and 5-foot sidewalk with a 2-foot wide buffer located at the back of the sidewalk (8-5-2 configuration). This 15-foot wide pedestrian corridor meets the City's recommended standard for local service street classifications in R5 zones. No street dedication will be required along the NE 72nd Avenue frontage and no improvements will be required.

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 Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

Driveways and Curb Cuts must meet Title 17 requirements and may have to be reconstructed if necessary to meet City Engineer's requirements at the time of development.

There is a concrete retaining wall or fence, approximately 2 feet high, located within the public right-of-way, at the back of the sidewalk. This structure must be removed along the frontage of Parcel 1 prior to final plat approval. Otherwise, the applicant must obtain a revocable encroachment permit to allow the structure to remain. The concrete wall and fence must be removed from the public right-of-way in front of Parcel 2. This will be required as a condition of development on Parcel 2.

There is a 'No Parking' sign and a utility pole near the Parcel 2 frontage. The "No Parking" sign must not be removed but may have to be relocated at the applicant's expense. This will be determined at the time of development on Parcel 2. The applicant is advised to contact the utility company to determine whether the utility pole will have to be relocated due to the proposed development. See Exhibit E-2 for details.

Conditions of approval will require that the encroaching wall/fence in front of Parcel 1 be removed. Alternatively, the applicant must obtain a revocable permit to allow it to remain before final plat approval. The wall/fence must be removed in front of Parcel 2 as a condition of development on the site.

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 water standards of 33.651 have been verified. The existing house has service from an existing 8-inch main in NE 72nd Avenue via a 5/8-inch metered line. This main will also be able to provide new service to Parcel 2.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch VSP combination sewer line in NE 72nd Street that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main through a branch approximately 247 feet north of a manhole at the intersection of NE 72nd Avenue and NE Pacific Street. An existing branch 276 feet north of the manhole at the same intersection is available for service to Parcel 2. See Exhibit E-1 for more details.
- The technical standards of *Chapter 33.653* related to stormwater management have been verified. The findings below for *33.653.020 Stormwater Management Approval Criteria* incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

- A. *If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and*
- B. *The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.*

Findings:

- A. Criterion A is not applicable because no stormwater tract is proposed or required.
- B. The *Stormwater Management Manual* contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the *Stormwater Management Manual*, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

There is no public storm-only sewer line available to serve the site. The applicant has proposed on-site infiltration by means of a drywell for Parcel 2. BES and Site Development have found this method to be acceptable. A soakage trench on Parcel 2 has been decommissioned and replaced with an approvable stormwater facility (*Permit 10-118252-SD*). See *Exhibit E-5d* Disregard this red. The stormwater management facilities for the existing house on Parcel 1 have been retrofitted and approved.

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not applicable - No dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable – PBOT has not required any street dedication
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.
33.654.130.E	Ownership of Alleys	Not applicable- No alleys are proposed or required.

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

- a. Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;
- b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;
- c. Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;

- d. *Master street plans for the area identified in Goal 11B of the Comprehensive Plan;*
- e. *Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.*

Findings: The site is less than 200 feet away from the intersection with NE Hassalo Street. Therefore no additional connectivity is required.

For the reasons described above, PBOT has concluded that the connectivity policies are adequately met for this proposal.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

- A. *Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.*

Findings: Utilities are defined in the Zoning Code as telephone, cable, natural gas, electric, and telecommunication facilities. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

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	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2008 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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 for aerial access roads. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- 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. This requirement is based on the standards of Title 20.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. 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.

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

Narrow lot standards

- Development on Parcel 2 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 1.5 times the width of the structure, per 33.110.215.B.2; and
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.E.3.a
 - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.E.3.b.
 - No more than 40% of the land area between the front lot line and the front building line may be paved or used for vehicle areas, with the exception that a lot is allowed at least a 9-foot wide vehicle area, per 33.266.120.C.3.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed **new** lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- **Paved Vehicle Area** - The existing house to remain on Parcel 1 has a garage and driveway. The new property boundary for the existing house appears to be in conformance with the standard in 33.266.120,C.3a which limits the amount of vehicle area paving to 40% between the front lot line and the front building line.

- The size and shape of the lot is consistent with the R5 zone and it is less than the maximum lot area so it cannot be further subdivided. There is a large area, at least 40 feet by 60 feet behind the house that could provide outdoor space. The existing house has been on the property for at least 100 years and the lot is larger than the ones nearby. Therefore creating a new lot 56.59 feet wide will be consistent with the size of existing lots. The house faces NE 72nd Avenue and has a driveway leading to a garage at the rear. The lot has street frontage and has access to services.

As discussed above this land division proposal can meet the requirements of 33.700.015.

CONCLUSIONS

The applicant has proposed a two lot 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: narrow lot standards; retrofitting stormwater facilities for the existing house, meeting development standards for the lot with the existing house and structures that encroach into the right-of-way. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-lot partition that will result in one standard lot and one narrow lot as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review to 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. Specifically the plan must verify that the vehicle area on Parcel 1 meets the front yard restrictions requiring that no more than 40% of the land area between the front lot line and the front building line may be paved or used for vehicle areas, per 33.266.120.C.3.
- Any other information specifically noted in the conditions listed below.

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

Existing Development

1. The applicant must plant 2 street trees in the planter strip on NE 72nd Avenue adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for the 8 ½-foot planting strip with overhead wires. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval allowing it to remain.
2. The existing wall/fence in front of Parcel 1 must be removed from the public right-of-way or the applicant must obtain revocable encroachment permit.
3. If the Supplemental Plan does not verify that the existing driveway on proposed Parcel 1 complies with 33.266.120.C.3 which limits front yard paving to 40% then the applicant must obtain and have finalized, a Zoning Permit showing removal of sufficient paving to meet the requirement.

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

1. The existing wall/fence in front of Parcel 2 must be removed from the public right-of-way.
2. The applicant shall meet the requirements of Portland Transportation for reconstruction of damaged sidewalks and curb closures, if applicable.

3. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structure on Parcel 2 shall be limited to 30 feet, measured to the gutter line.

Staff Planner: Sue Donaldson

Decision rendered by: _____ **on (August 2, 2010.)**
By authority of the Director of the Bureau of Development Services

Decision mailed August 5, 2010

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 7, 2010, and was determined to be complete on March 22, 2010.

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 7, 2010.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 21, 2010**

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. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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 noted

- A. Applicant Statement
 - 1. Site Development permit for stormwater retrofit
 - 2. Stormwater calculations – simplified approach
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat (attached)
 - 2. Existing Conditions and proposed new building footprint
- 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
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete letter

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

File No.	LU 10-101162 LDP
1/4 Section	2938
Scale	1 inch = 200 feet
State_Id	1N2E32AC 9100
Exhibit	B (Jan 11,2010)

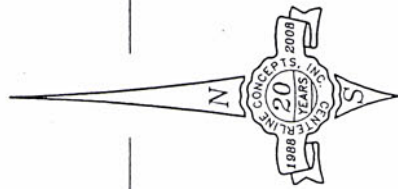
EXISTING CONDITIONS MAP

---VERTICAL CONTROL FROM FOUND CITY OF PORTLAND
AND NEIGHBORING JURISDICTIONS TO THE CENTERLINE
STREET AND 72ND AVE. ELEVATION= 260.97, COP

LEGEND:
WM = WATER METER
PP = POWER POLE
DS = DOWNSPOUT
CB = CATCHBASIN
CO = CLEANOUT

TAX LOT 9100
N.E. 1/4 SECTION 32, T.1N., R.2E., W.M.,
CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON
DECEMBER 11, 2009 SCALE 1"=10'

Preliminary plat



SIGNED ON: 12-14-09

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 16, 1987
WADE G. DONOVAN III
22716

VALID THROUGH DECEMBER 31, 2009

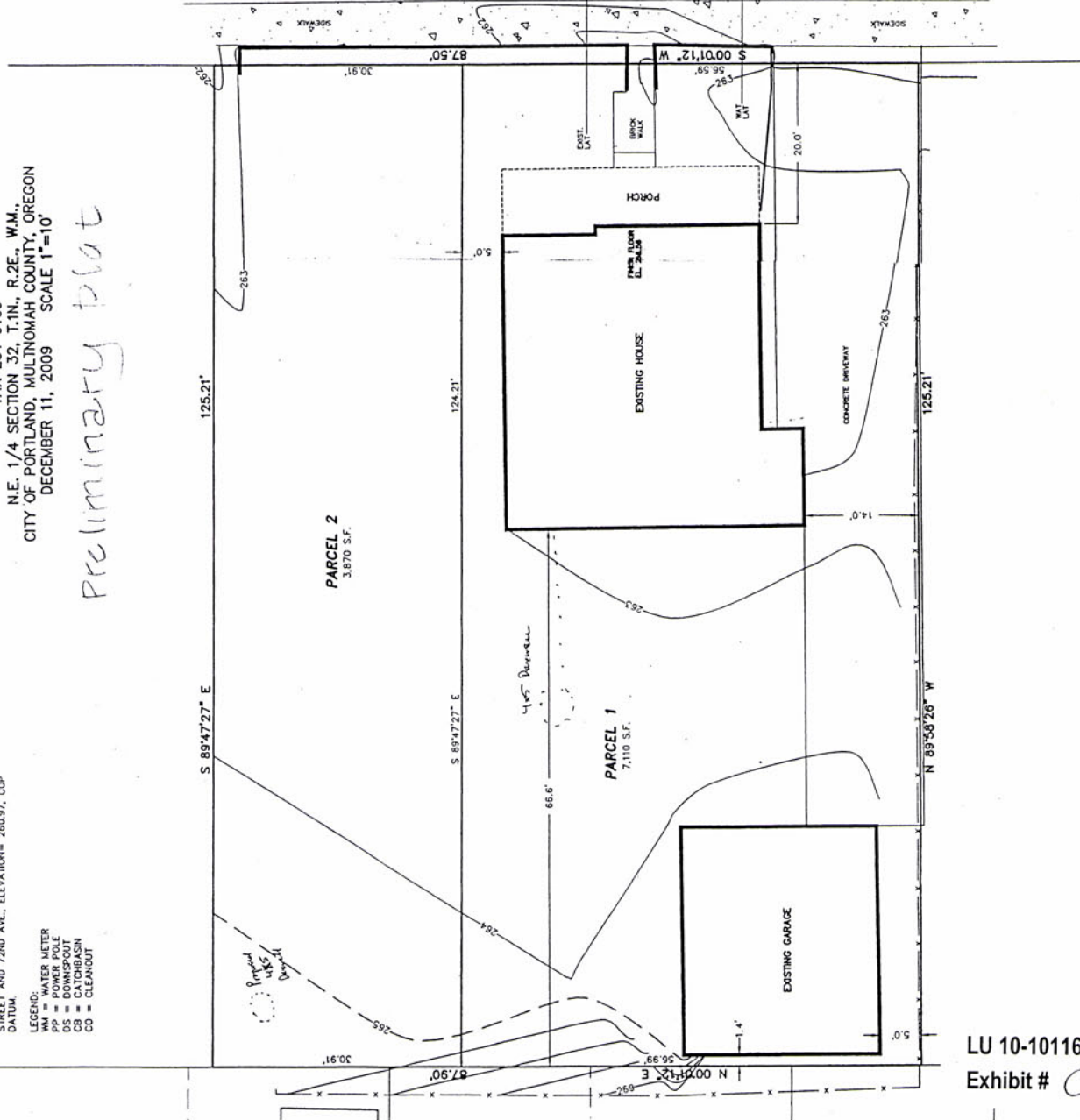


Centerline Concepts Inc.

700 MOLALLA AVENUE, OREGON CITY, OREGON 97045
503 650-0188 FAX 503 650-0189

DRAWN BY: MPW CHECKED BY: WDW ACCOUNT #150-5885
M:\PROJECTS\RYABCHUK\ECOM

THIS IS A PRELIMINARY PLAT



LU 10-101162 LDP
Exhibit # C.1