



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

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**Date:** June 15, 2010  
**To:** Interested Person  
**From:** Kate Green, 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 10-117808 LDP**

**GENERAL INFORMATION**

**Applicant:** Garner Moody  
P O Box 11560  
Portland OR 97211-0560

**Property Owner:** Steven D Paulson  
16 Buckingham Terrace  
Lake Oswego OR 97034

**Site Address:** 5804 NE 15TH AVENUE

**Legal Description:** BLOCK 9 LOT 1, OAKHURST  
**Tax Account No.:** R622301940  
**State ID No.:** 1N1E14DC 07800  
**Quarter Section:** 2432

**Neighborhood:** Vernon, contact John Fall at 503-3108264  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Lauren McCartney at 503-823-4135

**Zoning:** Single Dwelling Residential 2500 (R2.5)  
Alternative Design Density Overlay (a)  
Aircraft Landing Overlay (h)

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

**Proposal:** The applicant proposes to divide a 5,000 square foot corner lot into 2 parcels. Parcel 1 will be approximately 2,949 square feet and the existing house is proposed to remain on this lot. Parcel 2 will be approximately 2,050 square feet and existing development on this lot is to be removed, so the lot can be developed with a detached house.

New utility connections are proposed via public services in NE 15<sup>th</sup> Avenue. An onsite drywell is proposed for stormwater management for new development on Parcel 2. Splash blocks on

the existing house are to be relocated to meet setbacks from adjacent lot lines and continue to provide stormwater management for Parcel 1.

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).

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 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).

**Relevant Approval Criteria:** In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

## ANALYSIS

**Site and Vicinity:** The subject site is a relatively flat corner lot with frontage on NE 15<sup>th</sup> Avenue and NE Jarrett Street. Both streets have developed roadways and pedestrian corridors. The site is developed with a house, paved parking area, and gazebo/garden shelter. Several large trees are located on the north half of the property (within proposed Parcel 2).

The surrounding properties are in the R2.5 or R5 Single Dwelling zones, and are developed with one and two-story single dwelling residences. A commercial district is located approximately 600 feet to the south along NE Killingsworth Street. Alberta Park is located approximately 1,000 feet to the east at the end of NE Jarrett Street.

**Zoning:** The subject site is in a Single-Dwelling Residential 2500 (R2.5) base zone, with Alternative Design Density (a) and Aircraft Landing (h) overlay zones.

The R2.5 zone is a high-density single-dwelling zone. Single dwelling development (attached or detached houses) is allowed in the zone.

The Alternative Design Density (a) overlay allows additional density in certain circumstances. The applicant's proposal does not utilize any 'a' overlay provision.

The Aircraft Landing (h) overlay limits the height of structures and vegetation within the vicinity of Portland International Airport. The h-overlay height limit at this location is less than the 35 foot building height limit typically allowed in the R2.5 zone, so the applicant will be required to apply for an exception to the h-overlay height limit from the *Federal Aviation Administration*.

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

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on April 20, 2010.

**1. 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.

**2. Neighborhood Review:** No written responses have been received.

## 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
<b>A</b>	<b>33.611</b>	<b>Lots</b>	<b>Applicable - See findings below</b>
<b>B</b>	<b>33.630</b>	<b>Trees</b>	<b>Applicable - See findings below.</b>
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 the potential landslide hazard area.
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.
<b>G</b>	<b>33.635.100</b>	<b>Clearing and Grading</b>	<b>Applicable - See findings below.</b>
<b>G</b>	<b>33.635.200</b>	<b>Land Suitability</b>	<b>Applicable - See findings below.</b>
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site outside of environmental zones.
<b>K</b>	<b>33.641</b>	<b>Transportation Impacts</b>	<b>Applicable - See findings below</b>
<b>L</b>	<b>33.651-33.654</b>	<b>Services and Utilities</b>	<b>Applicable - See findings below</b>

#### 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. 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.

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 = 5,000 square feet (site area) \* (.80) ÷ 1 unit/5,000 square feet = .8 (which rounds up to a minimum of 1 lot, per 33.930.020.A)

Maximum = 5,000 square feet (site area) ÷ 1 unit/2,500 square feet = 2

The applicant is proposing 2 lots, so the density standards are met.

**Lot Dimensions:** The lot dimension requirements ensure that: (1) each lot has enough room for a reasonably-sized attached or detached house; (2) lots are of a size and shape that development on each lot can meet the development standards of the R2.5 zone; (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 wide enough to allow development to orient toward the street; (6) each lot has access for utilities and services; (7) lots are not landlocked; (8) lots don't narrow to an unworkable width close to the street; and (9) lots are compatible with existing lots while also considering the purpose of this chapter.

The dimensions of the proposed lots as compared to the required lot dimension requirements are shown in the following table (this information is found in Chapter 33.611 of the Zoning Code):

	<b>R2.5 Zone Requirement</b>	<b>Proposed Parcel 1</b>	<b>Proposed Parcel 2</b>
Minimum Lot Area (square feet)	1,600	2,949	2,250
Maximum Lot Area (square feet)	NA		
Minimum Lot Width* (feet)	36	49.99	41
Minimum Lot Depth (feet)	40	59	49.99
Minimum Front Lot Line (feet)	30	49.99	41

\* 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 describe how the applicable lot standards are met.

**B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.**

**Findings:** The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.1). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

<b>Tree #</b>	<b>Species</b>	<b>Diameter (inches)</b>	<b>Significant? (Table 630-1)</b>	<b>Exempt? (33.630.030)</b>	<b>To be retained?</b>	<b>Root Protection Zone (RPZ)</b>
1	Western Red Cedar	23.5	Y	Y-Within one-foot of foundation	N	n/a
2	Hawthorne, non-native	14	—	Y-Nuisance species in poor condition	N	n/a
3	Hawthorne, non-native	16.5	—	Y-Nuisance species in poor condition	N	n/a
4	<b>Western Red Cedar</b>	<b>20</b>	<b>Y</b>	<b>N-In decline, poor candidate for preservation</b>	<b>N</b>	<b>n/a</b>

The total non-exempt tree diameter on the site is 20 inches. The arborist recommends removal of the 20-inch Western Red Cedar given its state of decline, and suggests mitigation for the removal with one 10-12 foot Western red cedar on each lot.

Since the proposal does not meet any of the tree preservation options in 66.630.100, the applicant proposes to use the mitigation options of 33.630.300 instead.

### **33.630.300 Mitigation Option**

**As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:**

- A. As many trees as possible are preserved; and**
- B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.**
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:**
  - 1. Minimum density;**
  - 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;**
  - 3. Implementation of an adopted street plan;**
  - 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;**
  - 5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or**
  - 6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.**

The applicant initially proposed to plant one tree (Western red cedar) on each lot for mitigation (as noted in the Arborist Report, dated February 23, 2010). After discussions with BDS staff about the need for additional mitigation or other mitigation alternatives, the applicant submitted a new mitigation plan on June 11, 2010 (Exhibit A.1). The new plan proposes the installation of 2-3 inch caliper trees on each lot, including one tree on proposed Parcel 2, in the southeast corner of the parcel; and 3 trees on proposed Parcel 1, adjacent to the south lot line along NE Jarrett, based on a Tree Mitigation Plan-Addendum to the Arborist Report, dated June 8, 2010. The applicant also proposes to contribute \$1,000 to the City's Tree Fund, which is administered by the Urban Forestry Division of Portland Parks and Recreation. These funds are used to plant trees in the same watershed as the subject site. The cost to purchase and plant trees is determined each year by the Urban Forester based on current market prices per inch for materials, labor, and maintenance. At this time, the requirement is \$300 per inch of tree to be installed. At current costs, the proposed contribution would allow for approximately 3 inches of tree diameter to be planted. Overall the applicant's proposal would provide 11 to 15 inches of replacement tree inches for the 20 inches to be removed.

However, in this situation, both parcels will be relatively small, and the applicant will be required to meet the landscaping standard, known as the T1 tree planting standard, 33.248.020.H, which requires at least 3 inches of tree diameter to be retained or planted on proposed Parcel 2. Additionally, existing and required street trees are or will be located in close proximity to the street lot lines, so it may be impractical to place additional mitigation trees in those areas. As such, it may be impractical to also install the proposed replacement trees, in the locations noted in the updated mitigation plan.

Based on these factors and in consideration of the arborist's assessment of the condition of the 20-inch tree, the size of the lots, and other tree requirements that will apply to the parcels,

it is more practical to allow one replacement tree to be installed on Parcel 1, and to require that the applicant mitigate for the balance of tree removal with a larger contribution to the City's Tree Fund. A contribution equal to 7 tree inches will allow for the installation of at least 7 trees in the watershed in which the site is located, and will be comparable to the amount of tree diameter otherwise required by the Tree Preservation Standards. One mitigation tree on Parcel 1 and the payment to the Tree Fund should serve as sufficient mitigation.

With a condition that the applicant must, prior to final plat, obtain a Zoning Permit to confirm the installation of one 2-3 inch caliper mitigation tree on Parcel 1 and show the location of the mitigation tree on the Supplemental Plan; and contribute funds for 7 inches of trees to the City's Tree Fund, these mitigation measures will serve to equally meet the purpose of the Tree Preservation regulations. As such, this criterion will be 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.

A Preliminary Clearing and Grading Plan was not submitted with the land division application; however, the site is primarily flat, and is not located within the Potential Landslide Hazard Area, and no trees are located in the areas where new development on the site is anticipated, so no significant clearing or grading should be necessary to make the new lots developable.

Based on the foregoing, the clearing and grading anticipated to occur on the site can meet the approval criteria. This criterion will be 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.**

The site is currently in residential use, and there is no record of any other use in the past. The applicant has indicated that the accessory structure (gazebo/patio shelter) on proposed Parcel 2 will be removed. In order to confirm the structure and paving have been removed, the applicant must submit a Supplemental Plan, which shows any buildings or accessory structures on the site at the time of the final plat application. In addition, the applicant must obtain a finalized Zoning Permit for removing the accessory structure (gazebo/patio shelter) on

Parcel 2. With these conditions, the parcels will be considered suitable for development, and this criterion will be 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 found in the two paragraphs 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 of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The corner site has approximately 100 feet of frontage on NE 15<sup>th</sup> Avenue and approximately 50 feet of frontage on NE Jarrett Street. In the Transportation Element of the Comprehensive Plan, NE 15<sup>th</sup> Avenue is classified as a Neighborhood Collector, Major Priority Transit Street, City Bikeway, City Walkway, and Major Emergency Response; and NE Jarrett Street is classified as a local service street for all modes. Tri-Met provides transit service on NE 15<sup>th</sup> Avenue directly in front of the site, via bus #8. Parking is currently allowed along each side of the two frontages. Onsite parking for the existing house is provided via a driveway from NE 15<sup>th</sup> Avenue.

NE 15<sup>th</sup> Avenue is improved with a 36-foot paved roadway, and 12-foot pedestrian corridor (5-foot wide planter, 6-foot wide sidewalk, and 1-foot wide buffer) within a 60-foot right-of-way. NE Jarrett Street is improved with a 28-foot paved roadway, and a 16-foot wide pedestrian corridor (9-foot planter, 6-foot sidewalk, and 1-foot buffer), within a 60-foot wide right-of-way.

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.

In this situation, Portland Transportation notes the estimated increase in daily trips is less than 10 total trips per day with the majority of trips occurring during non peak hours, as provided by the Institute of Transportation Engineers–Trip Generation Manual (8<sup>th</sup> Edition). Consideration is also given to the likely division of the anticipated increase of less than 10 total trips per day being factored by four possible route directions to and from this location. Other considerations in determining potential Transportation related impacts include this location’s proximity to public transit access which provides on-going availability to an alternative mode of transportation located <500-feet from the subject property. Based on the availability of frequent transit service, the limited increase in anticipated traffic generated from this proposal, and the availability of alternative routes for vehicle access to and from the subject site, it is reasonably anticipated by Portland Transportation staff (including registered traffic engineers) that this

minimal increase to the existing transportation system facilities and capacity will not create a significant impact. A Transportation Study is not required at this time.

Based on these factors, Portland Transportation notes that no additional dedication or improvements will be required for either frontage. However, Portland Transportation notes that to provide sufficient separation of driveways, 5 feet of continuous curb is recommended between the driveway for proposed Parcel 2 and the adjacent non-corner lot, and this standard should be anticipated as a requirement at the time of permit review for new development on that parcel. Portland Transportation also notes the existing curbs and sidewalks may need to be repaired if they are in poor condition or are damaged at time of development. With this noted condition, this criterion will be 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 water standards of 33.651 have been verified. An existing 8-inch cast-iron (CI) water main in NE 15<sup>th</sup> Avenue serves the existing house and is available to serve the proposed parcel and new development. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing public 10-inch VSP combined sewer located in NE 15<sup>th</sup> Avenue that serves the existing house and can serve the sanitary needs of the proposed parcel. 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 the Stormwater Management Approval Criteria of 33.653.020 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:** No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual (SWMM). In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the SWMM, 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.

The applicant has proposed onsite infiltration by means of drywells for proposed Parcel 2, and the use of splash blocks for the existing house. The Bureau of Environmental Services (BES) indicates onsite discharge a drywell for Parcel 2 is acceptable; however, both BES and Site Development note that the downspouts and splash blocks for the existing house will need to be re-routed to meet the required setbacks from the structure's basement, the proposed lot lines, and adjacent structures. See Exhibits E.1 and E.5 for complete details.



Therefore, prior to final plat, unless otherwise approved by Site Development, the applicant must obtain final approval of Site Development permit 10-130399-SD for stormwater system retrofit inspection for the existing house on Parcel 1. If a separate plumbing permit is required, then the permit must be finalized prior to approval of the Site Development permit. With these conditions, the stormwater management requirements can be met.

As shown by the findings and conditions, above, the Services and Utilities criteria will be met.

### **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.

<b>Code Section</b>	<b>Topic</b>	<b>Applicability Findings</b>
<b>33.654.110.B.1</b>	<b>Through streets and pedestrian connections</b>	<b>Applicable - See findings below</b>
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.
<b>33.654.120.C.1</b>	<b>Width of the street right-of-way</b>	<b>Applicable - See findings below.</b>
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.
<b>33.654.130.A</b>	<b>Utilities</b>	<b>Applicable - See findings below.</b>
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 located on the corner of NE 15<sup>th</sup> Avenue and NE Jarrett Street. Based on the current street grid, the developed sidewalk pattern, and the optimum spacing requirement of 200-530 feet, there is no need for additional cross streets in the vicinity of the site. Based on these factors, this criterion is met.

**33.654.120.C.1 Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.**

**Findings:** As noted in the findings for Criterion K, above, Portland Transportation notes the width of the right-of-way is sufficient, and no dedication will be required. As such, this criterion is met.

#### **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.

### **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.

**Existing development that will remain after the land division.** The existing house on the site will remain and be located on proposed 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:

- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new parcels to meet this standard, all accessory structures on Parcel 2 must be removed prior to final plat. A Zoning Permit is required. The applicant must provide documentation prior to final plat approval that all required permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Off-Street Parking Restriction – For single dwelling development, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved for vehicle area. Currently an 18-foot wide paved parking pad provides a parking area for the existing house on proposed Parcel 1. As a result of this land division, the size of Parcel 1 will decrease, and the proportion of paving within the side street lot line will increase. As such, the paved parking area will exceed the allowed 20 percent paving standard. In order to ensure that paving restriction continues to be met, the width of the driveway on Parcel 1 must be reduced prior to final plat approval. A Zoning Permit must be obtained to remove a portion of the pavement, and documentation of final inspection of that permit will be required prior to final plat approval.

## 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 <a href="http://www.water.ci.portland.or.us/">http://www.water.ci.portland.or.us/</a>
Environmental Services	Title 17; 2008 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 <a href="http://www.bes.ci.portland.or.us/">http://www.bes.ci.portland.or.us/</a>
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 <a href="http://www.fire.ci.portland.or.us/">http://www.fire.ci.portland.or.us/</a>
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 <a href="http://www.trans.ci.portland.or.us/">http://www.trans.ci.portland.or.us/</a>
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 <a href="http://www.bds.ci.portland.or.us.">http://www.bds.ci.portland.or.us.</a>

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

- The applicant must meet the requirements of the Fire Bureau in regards to aerial fire department access, at the time of development. 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.

## CONCLUSIONS

The applicant has proposed a 2-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: removal or alterations to existing development to meet zoning and stormwater management requirements, and tree mitigation. With conditions that address these requirements, this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2-lot partition that will result in 2 standard lots as illustrated with Exhibit C.1, subject to the following conditions:

**A. Supplemental Plan.** Four copies of an additional supplemental plan must be submitted with the final plat survey for Land Use and Site Development 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 vehicle parking areas on the site at the time of the final plat application;
- The as-built location of any required new subsurface stormwater system retrofit facilities for the existing house on Parcel 1 to the satisfaction of Site Development and Bureau of Environmental Services. If no new subsurface facilities are required, this requirement will not apply.
- Any other information specifically noted in the conditions listed below.

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

### Existing Development

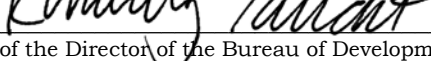
1. The applicant must obtain a finalized Zoning Permit for removing the accessory structure (patio shelter) on Parcel 2.
2. The applicant must obtain a finalized Zoning Permit for modifications to the existing driveway/parking area that will remain on Parcel 1 to demonstrate compliance with the following standard in relation to the proposed new lot lines, and the modified driveway/parking area must be shown on the Supplemental Plan:
  - 33.266.120.C.2 (standards for parking area locations and percentage of paving).
3. The applicant must obtain a Zoning Permit to confirm the installation of one 2-3 inch caliper mitigation tree on Parcel 2, and show the location of the mitigation tree on the Supplemental Plan.
4. The applicant must obtain final approval of Site Development permit 10-130399-SD for stormwater system retrofit inspection for the existing house on Parcel 1, unless otherwise approved by Site Development. If a separate plumbing permit is required, then the permit must be finalized prior to approval of the Site Development permit. The as-built location(s) of any required subsurface facilities must be shown on the Supplemental Plan.
5. The applicant must plant one street tree in the planter strip on NE 15<sup>th</sup> Avenue, adjacent to Parcel 1. Street trees will be chosen from the City's approved street tree list for the 4 ½ to 5 foot planting strip with overhead power lines. 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.

**Other requirements**

6. The applicant must pay into the City Tree Fund the amount equivalent to 7 inches of trees. Payment must be made to the Bureau of Development Services, who administer the fund for the Parks Bureau.

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

1. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau, or the height of new structures shall be limited to 30 feet, measured to the gutter line.
2. If determined to be in poor condition, the curbs and sidewalks along the frontage(s) of Parcels 1 and 2 must be reconstructed to the satisfaction of the City Engineer.
3. Driveway approaches within the public right-of-way are to be constructed to meet typical City standards, and are to match adjacent pedestrian corridor configurations.

**Staff Planner: Kate Green****Decision rendered by:**  **on June 11, 2010**  
By authority of the Director of the Bureau of Development Services**Decision mailed June 15, 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 March 12, 2010, and was determined to be complete on April 15, 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 March 12, 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: August 14, 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](http://www.portlandonline.com).

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

#### EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
  - 1. Tree Mitigation Plan-Addendum to Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Site Map/Survey (reduced copy-attached)
  - 2. Utility Plan
  - 3. Grading/Erosion Control 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 Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence: (none)
- G. Other:
  - 1. Original LU Application
  - 2. Site History Research
  - 3. 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

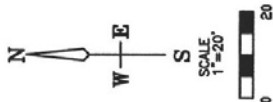


Site



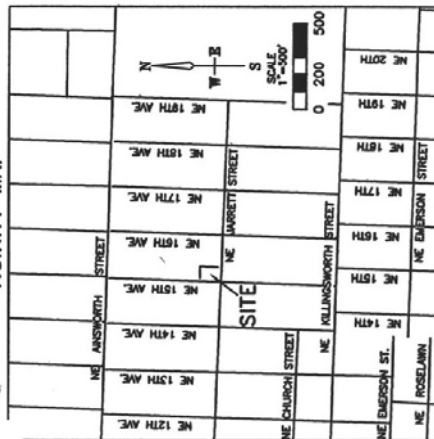
NORTH

File No.	LU 10-117808 LDP
1/4 Section	2432
Scale	1 inch = 200 feet
State_Id	1N1E14DC 7800
Exhibit	B (Mar 12, 2010)



"OAKHURST"  
BLOCK 10

### VICINITY MAP



### SITE MAP

LOT 1, BLOCK 9, "OAKHURST"  
LOCATED IN SE 1/4 S.14, T.1N, R.1E, W.M.  
IN THE CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON  
DATE: FEBRUARY 18, 2010

BOOK 1723,  
PAGE 1549,  
WAT. CO. RECD RECORDS  
3799 S.F.

"OAKHURST"  
BLOCK 9

LOT 5  
7667 S.F.

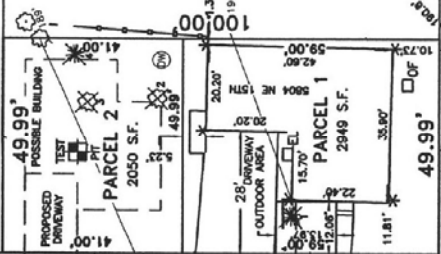
LOT 4  
4998 S.F.

LOT 3  
4998 S.F.

LOT 2  
4998 S.F.

N.E. 15th AVENUE  
(60.00' WIDE)

N.E. JARRETT STREET  
(60.00' WIDE)



### SYMBOLS

- TELEPHONE RISER
- POWER POLE
- OIL FILL
- WATER METER
- GAS METER
- ELECTRIC METER
- WATER VALVE
- GAS VALVE
- MANHOLE
- CLEAN OUT
- CATCH BASIN
- FIRE HYDRANT
- DOWN SPOUTS
- GAS LINE
- WATER LINE
- SANITARY SEWER
- POSSIBLE WATER LINE
- POSSIBLE SANITARY SEWER
- DECIDUOUS TREE
- CONIFEROUS TREE
- ROOT PROTECTION ZONE

### LEGEND

- INDICATES MONUMENT FOUND AS NOTED
- INDICATES 5/8" X 30" IRON ROD W/ RED PLASTIC CAP STAMPED "FERGUSON LS 2445" SET

### NOTES:

- ZONE IS R2.5(MB).
- STANDARD SETBACKS ARE SHOWN IN PARCEL 2.
- FINAL BUILDING TYPE, SIZE AND POSITION TO BE LOCATED AT THE TIME OF BUILDING PERMITS.
- DRY WELLS AND OTHER UTILITIES TO BE LOCATED AT THE TIME OF BUILDING PERMITS.
- EXISTING UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY.
- DOWNSPOUTS FROM THE EXISTING HOUSE HAVE BEEN REMOVED TO SPLASHBLOCKS.
- DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION.

W10-117808 LDP

CLIENT: GARNER MOODY

Ferguson Land Surveying, Inc.  
646 SE 106TH AVE. PORTLAND, OR 97216  
Phone (503) 408-0601 Fax (503) 408-0602

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
OREGON  
JULY 25, 1990  
JULY 25, 2000  
JULY 25, 2010  
RENEWAL DATE 12/31/11

SHEET NO. 1 OF 1  
JOB NO. 10-025  
REVISED 03/11/2010

monocopy Exhibit C.1