



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

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Date: January 3, 2019
To: Interested Person
From: Diane Hale, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 18-178504 LDP

GENERAL INFORMATION

Applicant: Meaghan Bullard, Jones Architecture
120 NW 9th Ave #210 / Portland, OR 97209 / (503) 477-9165

Owners': Robb Rathe and Erin Moeschler
Representatives: 2406 NE Going Street / Portland, OR 97211

Owner: Big Tree 3 LLC
2360 N Harding Ave | Portland, OR 97227

Site Address: 3934 SE BOISE ST

Legal Description: BLOCK 7 LOT 13, WILLIAMS ADD 2
Tax Account No.: R916103370
State ID No.: 1S1E12DD 03300
Quarter Section: 3434
Neighborhood: Creston-Kenilworth, contact Joe Hovey at ckna.landchair@gmail.com.
Business District: None
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Zoning: R2.5 (Single Family Residential 2,500)
Case Type: LDP (Land Division Partition)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 2-parcel partition for attached housing for this ~5,000 square foot interior lot. The existing development will be removed. Parcels 1 and 2 are proposed to be 2,504 square feet each and 25 feet wide. The minimum lot width in the R2.5 zone is 36 feet. Lots that are narrower than 36 feet wide can be approved if they meet the "narrow lot criteria" located in the Zoning Code in 33.611.200. Off-street parking is proposed for both new homes. The applicant is proposing to preserve the 86" Giant Sequoia tree on the site.

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

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land (2 parcels). Therefore, this land division is considered a partition.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

FACTS

Site and Vicinity: This 5,000 square foot is an interior lot developed with a house built in 1950, a detached garage and a shed. The surrounding area has a diverse mix of zoning including multi-family and commercial zoning along nearby Gladstone Street and Holgate Blvd, and along Cesar Chavez Blvd, which is ~150 feet to the west. Creston Park is ~1/4 mile to the northeast of the site.

Infrastructure:

- **Streets –**

The site has approximately 50 feet of frontage on SE Boise Street. There is one driveway entering the site that serves the existing house on the site. At this location, SE Boise Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 150 feet west of the site at SE Cesar Chavez Blvd via Bus #75.

SE Boise Street has a 30-foot paved roadway within a 50-foot right-of-way with parking on both sides. Along the 50-foot wide site frontage, the pedestrian corridor includes a planter area, curb and sidewalk in a 3-6-1 configuration.

- **Water Service –** There is an existing 8-inch CI water main in SE Boise Street. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service -** There is an existing 10-inch VSP public combination sewer line in SE Boise Street.
- **Stormwater Disposal –** There is no public storm-only sewer currently available to this property.

Zoning: The R2.5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **July 3, 2018**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 *The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.*

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

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

Findings: Chapter 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey, the site area is 5008 square feet. The maximum density in the R2.5 zone is one unit per 2,500 square feet. Minimum density is

one unit per 5,000 square feet based on 80 percent of the site area. The site has a maximum density of 2 units and a minimum required density of 1 units. The applicant is proposing 2 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1	2504		25	100	25
Parcel 2	2504		25	100	25

* 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

Parcels 1 and 2 are 25 feet wide, which is narrower than the minimum width for the R2.5 zone, as shown in the table above. The Zoning Code allows narrower lots if the future development can meet the regulations of Section 33.611.200.C.

On balance, the proposed lots will have dimensions that are consistent with the purpose of this section.

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; (9) lots are compatible with existing lots while also considering the purpose of this chapter; and (10) lots are regularly shaped.

The applicant has demonstrated that the proposed Parcels 1 and 2 are consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements and is oriented towards the street. Therefore, they have demonstrated that the proposed lots can accommodate a reasonably sized house while meeting the development standards of the zoning code.
- An outdoor area is provided for each lot.
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services.
- The proposed parcels are not landlocked. They are regularly shaped and do not narrow to an unbuildable width close to the street.
- The purpose of the chapter specifically allows variation in size and shape provided the planned intensity of the zone is respected. The planned intensity of the zone is one unit per 2,500 square feet, or 2 units for a site of 5,000 square feet. The applicant is proposing 2 units, thus the planned intensity is being respected. The code provides flexibility for lot dimensions because it is not possible to redevelop a standard 50 by 100-foot lot to the intended density and still meet the standard lot dimensions.
- The proposed property lines are straight and perpendicular to the abutting rights-of-way, resulting in rectangular parcels that are regularly shaped and comparable in form to the nearby properties.

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

- The lots will be developed with attached houses; therefore, this standard does not apply.

If the lot abuts an alley, then vehicle access is allowed only from the alley.

- The site does not have access from an alley, so this standard does not apply.

Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.D at the time of development. Sixty percent (60%) landscaping requirement for attached houses.

- The lots will be developed with attached houses with street-facing facades that are 20 feet wide each. An attached garage is not allowed per 33.110.253.D.3.b. The applicant has shown that the houses can be served by parking pads that meet the requirements of the Zoning Code and Title 17 (driveways). The lots will have driveways that share a common access to the public street. The shared driveway will be 14 feet wide at the curb opening, and widen to 9 feet on each lot near the front building wall of the homes. This configuration results in less than 36% of the front yard of each lot devoted to driveway area. Therefore, the remaining front yard area can be landscaped to meet this requirement.

If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.

- Parcels 1 and 2 are exempt from minimum parking requirements due to their location within 500 feet of a transit street with 20-minute service. However, the applicant has proposed on-site parking for each parcel that will be accommodated with parking pads in front of the new homes. As discussed above, the garage limitation requirements of 33.110.253.D will be met.

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

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

Findings: The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees.

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided an existing conditions survey (Exhibit C.4) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.9) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 2 trees, which provide a total of 125 inches of tree diameter, are subject to the preservation requirements of this chapter.

The applicant proposes to preserve tree #343, an 86" Giant Sequoia, which complies with Option 3 of the Preservation Standards, preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.

The arborist report (Exhibit A.9) submitted with the original application recommended a root protection zone and specific construction techniques to protect the Sequoia tree. In subsequent iterations of the overall development plan, the root protection zone was expanded to provide a larger protection area for the tree. The original construction techniques and specific protection measures for demolition and new construction activities outlined in the arborist report (Exhibit A.9) still apply; the revised root protection zones are shown on the clearing and grading/tree preservation plans for demolition (Exhibit C.2) and new construction (Exhibit C.3).

The arborist requirements for protection measures for demolition and new construction are as follows:

- Site access for demolition shall be routed down the existing driveway at the east side of the lot. For the new construction, equipment access shall also be routed along the east property line.
- 4 to 6" of mulch shall be placed in the front yard during demolition and new construction. See Exhibits C.2 and C.3 for required areas of mulch.
- Prior to any digging for the house foundations, the project arborist shall excavate an exploratory trench using an Air Spade tool to locate any roots that will be cut for the foundations (see Exhibit C.3 for trench locations). The trenches will run along the northern edges of the foundations to a depth of ~2 feet. The project arborist shall prune any roots encountered back to a lateral root, cut cleanly beyond the excavation line.
- The driveway shall be constructed with pervious pavers. Grading and digging for the paver driveway will be done by hand. Excavation for the foundations and the paver driveway will be supervised by the project arborist. The fencing location can be altered under arborist supervision to allow for the construction of the paver driveway.
- Utilities running through the root protection zone are required to be bored, rather than trenched.

The tree proposed for preservation is in good condition, is a native species, and is over 20 inches in diameter. The proposed root protection zones for the tree to be retained, as shown on Exhibits C.2 and C.3, and the additional measures recommended by the arborist, will allow for the type of development anticipated in the R2.5 zone and will not conflict with any existing utility easements, proposed services or site grading.

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of Parcels 1 and 2 are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Clearing and Grading/Tree Preservation Plans (Exhibits C.2 and C.3) and the Arborist Report (Exhibit A.9).

With the implementation of the noted conditions, the approval criteria will be met.

At the time of development, the individual parcels must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of

the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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

Findings:

Clearing and Grading

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 lots developable. There is an 86" Giant Sequoia tree to be preserved in the front yard of Parcel 1. As described above in section B, Trees, the arborist has recommended root protection zones and additional construction measures to protect the tree during demolition of the existing development and new construction on the site, which do not conflict with the proposed clearing and grading. With a condition requiring those recommendations to be implemented during site work, the clearing and grading will be conducted in accordance with this provision. This criterion is met.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

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

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

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

- A Reciprocal Access Easement is proposed to allow shared use of a driveway that will straddle proposed lot lines;
- A Private Storm Sewer Easement is required across the relevant portion of Parcel 2 for a shared drywell that will provide stormwater disposal for both parcels.

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

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

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

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

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

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

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

The applicant provided a transportation and parking analysis prepared by a licensed Oregon Engineer addressing the approval criteria above (Exhibit A.7). Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, the project is estimated to generate approximately 10 additional trips each day. The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.

The applicant's narrative demonstrates that the surrounding area's street capacity and Level of Service (LOS) satisfies the City's standard for capacity, and will pose a minimal impact to immediate and adjacent neighborhoods.

Vehicle access will be provided by a single, combined driveway off SE Boise, which will minimize impacts to on-street parking, and loading is expected to take place primarily off-street, or by the two on-street parking spaces immediately adjacent to the site. The applicant applied for and was approved for a Driveway Design Exception (18-216380 TR) for a 14-ft wide curb cut with 3-ft wings, which will accommodate the proposed shared driveway design.

The existing sidewalk corridor and street provide sufficient transportation facilities to reduce impacts to the neighborhood and provide safety for all modes, including transit service to three Tri-Met bus lines within half mile from the subject property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area. The proposed development will not negatively impact transit service or safety for any mode.

PBOT has reviewed and concurs with the information supplied the methodology, assumptions and conclusions made by the applicant's traffic consultant. These criteria are met.

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

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

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

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

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

The applicant has proposed the following stormwater management methods:

- **Parcels 1 and 2:** Stormwater from these lots will be directed to a shared drywell located on Parcel 2 that will treat the water and slowly infiltrate it into the ground. The site has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, accommodate water from a reasonably-sized home, and meets the BDS Code Guide for shared drywells. BDS and BES have indicated conceptual approval of the drywell. An easement and maintenance agreement will be required to ensure access is available to both property owners, as discussed above in Section H.

The standards and criteria of this section are satisfied.

33.654.110.B.1 Through streets and pedestrian connections

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

The block on which the subject property is located does not meet the noted spacing requirements. However, the site does not contain sufficient width to allow the creation of a public north-south through street, and the properties adjacent to the portion of the site where the street would terminate are already developed and are not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for a north-south through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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

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.

At this location, SE Boise Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). SE Boise Street has a 30-foot paved roadway within a 50-foot right-of-way with parking on both sides. Along the 50-foot wide site frontage, the pedestrian corridor includes a planter area, curb and sidewalk in a 3-6-1 configuration.

Portland Transportation has indicated that the existing street is currently improved in a manner that is sufficient to serve the expected users. 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.

This criterion is met.

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

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

DEVELOPMENT STANDARDS

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

Future Development

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

- Narrow Lots-- development on Parcels 1 and 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
 - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.D.3.b.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R2.5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and fire apparatus

access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met or can be met with conditions. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

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

A. The final plat must show the following:

1. A private storm sewer easement shall be shown and labeled over the relevant portions of Parcel 2.
2. A Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Parcels 1 and 2, in the location where the shared portion of the driveway will be located. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. A recording block for each of the legal documents such as maintenance agreements, acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions A.5, A.6 and A.7 below. The recording blocks shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) / An Acknowledgement of Tree Preservation Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records."

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

Utilities

1. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Existing Development

2. A finalized permit must be obtained for demolition of the existing residence on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. The site plan for the demolition permit must show all trees to be preserved, root protection zones, site access location, and other tree protection details, as shown on Exhibit C.2. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.9).
3. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 2. The site plan for the demolition permit must show all trees to be preserved, root protection zones, site access location, and other tree protection details, as shown on Exhibit C.2. All demolition work must be in conformance with the recommendations in the applicant's arborist report (Exhibit A.9).
4. The applicant must remove the shed on Parcel 1. The applicant must submit before and after photos of the removal (with the same perspective). Prior to removal of these

structures, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition C.1.

Required Legal Documents

5. A Maintenance Agreement shall be executed for the Reciprocal Access Easement described in Condition A.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
6. A Maintenance Agreement shall be executed for the Private Stormwater Easement described in Condition A.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Clearing and Grading/Tree Preservation Plans (Exhibits C.2 and C.3) must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Clearing and Grading/Tree Preservation Plans (Exhibits C.2 and C.3) and the applicant's arborist report (Exhibit A.9). Specifically, tree #343 is required to be preserved with the root protection zones indicated on Exhibit C.2 (for demolition permits) and Exhibit C.3 (for new construction). Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. In addition to the tree protection fencing, the following arborist requirements for protection measures for demolition and new construction are required:
 - Site access for demolition shall be routed down the existing driveway at the east side of the lot. For the new construction, equipment access shall also be routed along the east property line.
 - 4 to 6" of mulch shall be placed in the front yard during demolition and new construction. See Exhibits C.2 and C.3 for required areas of mulch.
 - Prior to any digging for the house foundations, the project arborist shall excavate an exploratory trench using an Air Spade tool to locate any roots that will be cut for the foundations (see Exhibit C.3 for trench locations). The trenches will run along the northern edges of the foundations to a depth of ~2 feet. The project arborist shall prune any roots encountered back to a lateral root, cut cleanly beyond the excavation line.
 - The driveway shall be constructed with pervious pavers. Grading and digging for the paver driveway will be done by hand. Excavation for the foundations and the paver driveway will be supervised by the project arborist. The fencing location can be altered under arborist supervision to allow for the construction of the paver driveway.
 - Utilities running through the root protection zone are required to be bored, rather than trenched.

Planning and Zoning permit approval is subject to receipt of a signed contract verifying that the arborist will be on site as outlined above.
2. The shared driveway must be constructed with pervious pavers.

3. Parcels 1 and 2 must be developed with attached dwelling units.
4. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

Staff Planner: Diane Hale

Decision rendered by: Diane Hale **on December 28, 2018.**

By authority of the Director of the Bureau of Development Services

Decision mailed January 3, 2019

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on May 29, 2018, and was determined to be complete on June 28, 2018.

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 May 29, 2018.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant requested that the 120-day review period be extended by 70 days. Unless further extended by the applicant, **the 120 days will expire on January 4, 2019.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during

the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

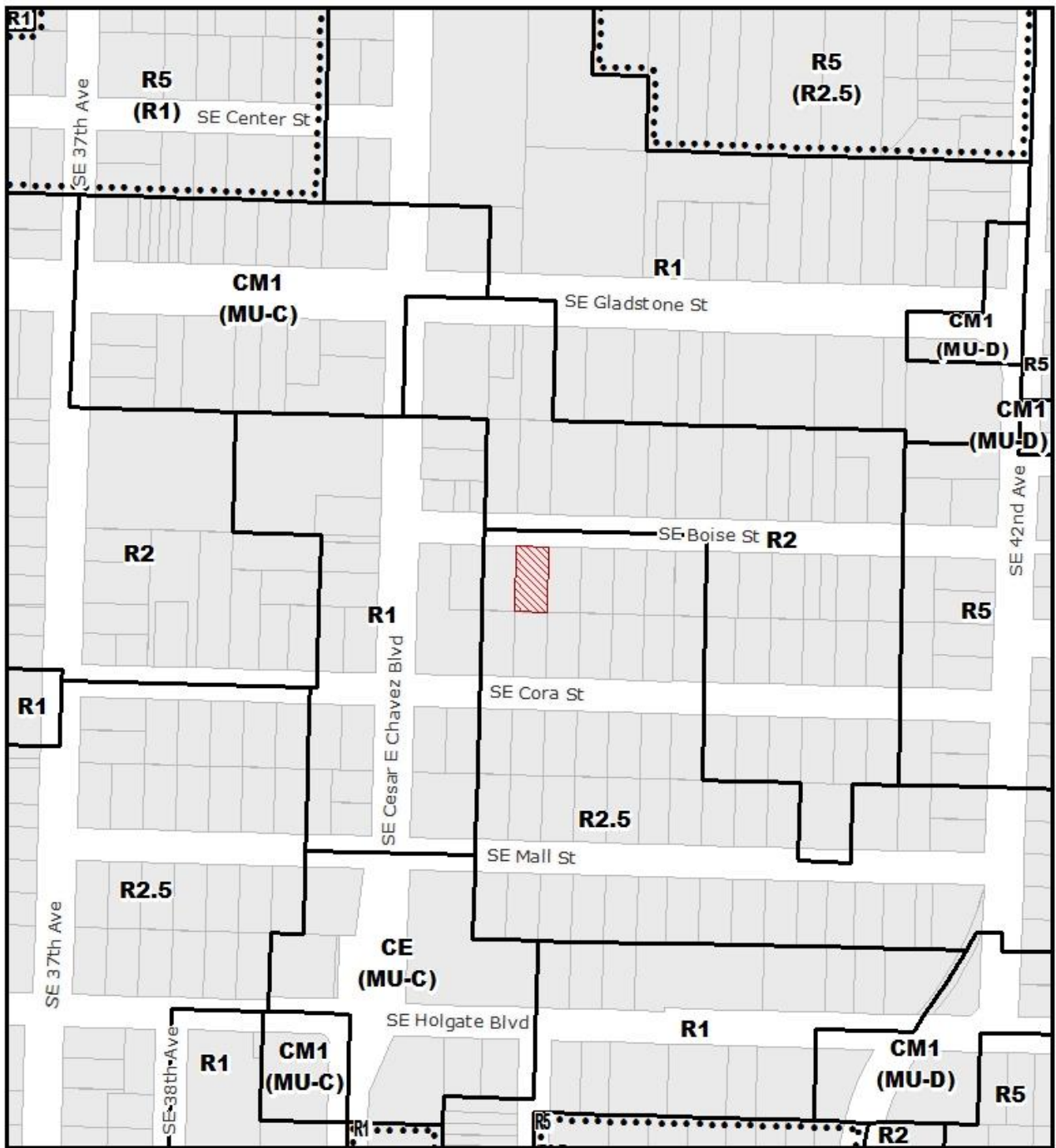
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's original submittal and plans
 - 2. Applicant's response, September 26, 2018
 - 3. Applicant's response, November 2, 2018
 - 4. Applicant's response, November 8, 2018
 - 5. Applicant's response, November 30, 2018
 - 6. Applicant's response, December 12, 2018
 - 7. Transportation and Parking Analysis
 - 8. Stormwater Calculations and Simplified Approach Form, original submittal, 9/26/18 and 11/2/18
 - 9. Arborist Report, September 19, 2018
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Utility Plan (attached)
 - 2. Clearing and Grading/Tree Preservation Plan - Demolition
 - 3. Clearing and Grading/Tree Preservation Plan - New Construction
 - 4. Existing Conditions Survey
 - 5. Preliminary Plat
- 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. Life Safety Section of BDS
 - 7. Parks Urban Forestry
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Form
 - 3. Extension Form

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



File No.	LU 18-178504 LDP
1/4 Section	3434
Scale	1 inch = 200 feet
State ID	1S1E12DD 3300
Exhibit	B Jun 06, 2018

JONES ARCHITECTURE

OCTOBER 9, 2018 3849 SE BOISE - UTILITY PLAN

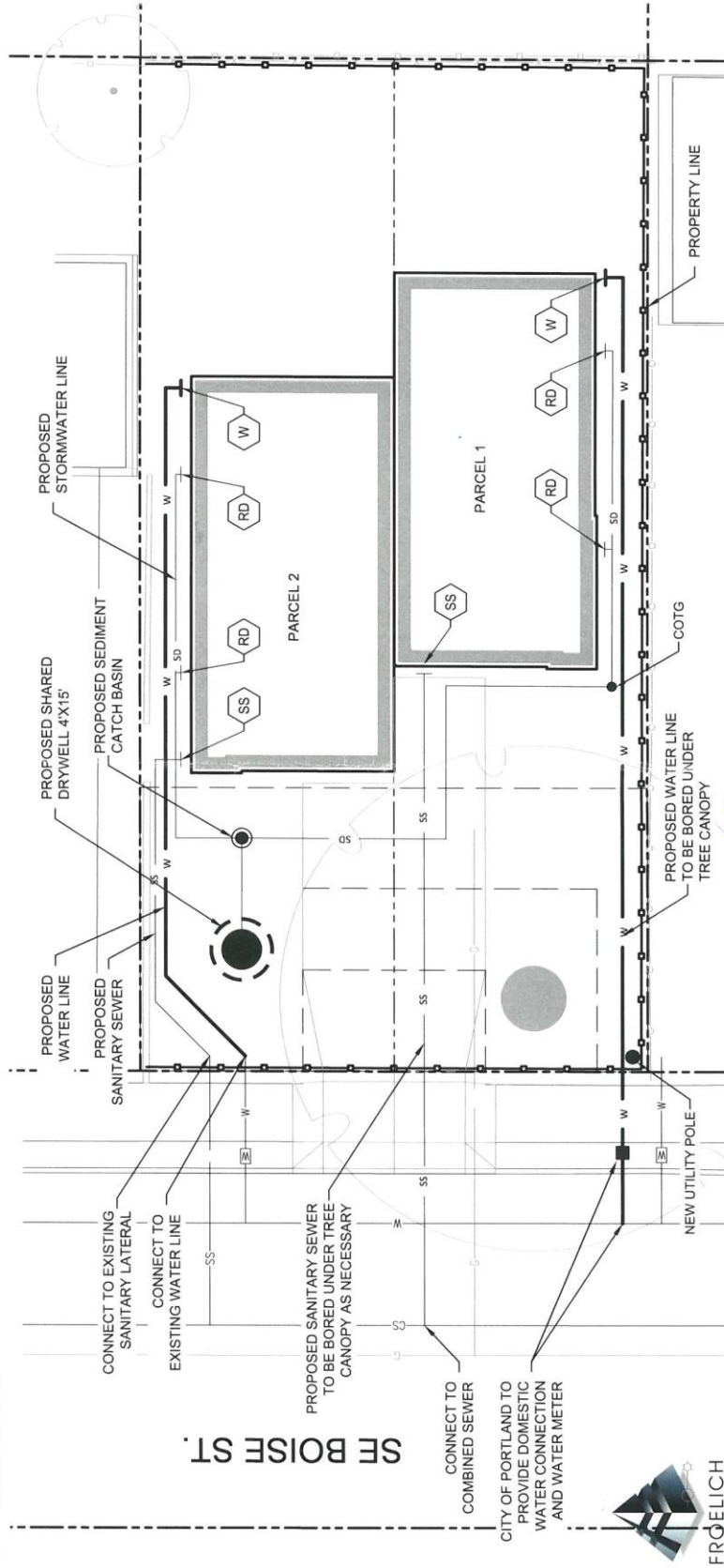
18-178504-LU REVIEW RESPONSE

STORMWATER

- STORMWATER MANAGEMENT FOR THE SITE WILL BE ADDRESSED THROUGH A SHARED 4'X15' DRYWELL. A DRYWELL IS AN ACCEPTABLE DISPOSAL METHOD AND DOES NOT REQUIRE RUNOFF TO BE TREATED PRIOR TO DISPOSAL. ALL RUNOFF MUST RUN THROUGH A LYNCH STYLE CATCH BASIN. DRYWELL IS SIZED THROUGH SIMPLIFIED APPROACH.
- INFILTRATION RATE: @ 10-FOOT DEPTH = 1.4 IN/HR; @ 15-FOOT DEPTH = 7.2 IN/HR
- SHARED DRYWELL DESIGNED PER CODE GUIDE - OPSC 308.0. NO PLUMBING CODE APPEAL REQUIRED.
- A UTILITY EASEMENT AND MAINTENANCE AGREEMENT WILL BE RECORDED WITH COUNTY PRIOR TO COMPLETION.
- PERVIOUS PAVERS WILL BE USED IN THE DRIVEWAY.
- INFILTRATION RATE @ 2-FOOT DEPTH = 7IN/HR IN DRIVEWAY.
- IMPERVIOUS AREA
- PERVIOUS PAVEMENT = 587SF
- BUILDING ROOF = 1,554SF
- HARDSCAPE = 731SF

WATER/SEWER

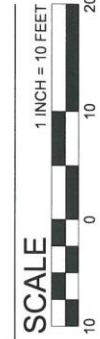
- BORING OF WATER AND SEWER LINE UNDER EXISTING TREE CANOPY SHALL BE COORDINATED WITH PORTLAND AND PROJECT ARBORIST.
- EXCAVATION WITHIN THE RPZ ZONE SHALL BE COMPLETED PER ARBORIST RECOMMENDATIONS.



RECORDED
NOV 12 2018

UTILITY PLAN

SCALE: 1" = 10'



CASE N