



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

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

Date: July 16, 1013 **To:** Interested Person

From: Kathy Harnden, Land Use Services

503-823-7318 / Kathy.Harnden@portlandoregon.gov

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 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 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 12-106656 LDP

GENERAL INFORMATION

Applicant/Owner: Damir Karin

PO Box 90277 / Portland, OR 97290-0277

Contact: Joe Ferguson / Ferguson Land Surveying, Inc.

646 SE 106th Avenue / Portland, OR 97216

Site Address: 5530 SE Rural St.

Legal Description: BLOCK 5 LOT 4, GILTNER-WHITE PK

Tax Account No.: R318201850 **State ID No.:** R32E19AC 01400

Quarter Section: 3736

Neighborhood: Brentwood-Darlington, contact Eric Wikoff at 503-704-2396. **Business District:** Woodstock Community BA, Sean Daugherty at 503-754-2636.

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Zoning: R5a – Residential 5000 with the Alternative Design Density (a) Overlay

Zone

Case Type: LDP – Land Division Partition

Procedure: Type I, an administrative decision with appeal to the Oregon Land Use

Board of Appeals (LUBA).

Proposal:

The applicant proposes to divide this property into two parcels, both fronting on SE Rural Street. Both Parcel's 1 and 2 will be 50 feet wide by 96 feet deep, or 4,800 square feet in area after street dedication requirements. Both water and sewer will be accessed from mains in SE Rural. Stormwater will be retained in drywells located in the right of way portions of the driveways.

There are two trees on the site: one, 15-inch diameter Norway maple, which is considered a nuisance species, and one 8-inch flowering dogwood, both of which will be removed in order to develop the site. The arborist's "Tree Mitigation Plan" recommended that two, 1.5 inch trees be planted somewhere 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 parcels. Therefore this land division is considered a partition.

Relevant Approval Criteria:

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.

FACTS

Site and Vicinity: The site is a 10,000 square-foot lot, containing two trees. A single family dwelling was demolished in 2012 and the site is currently vacant. The site is situated on a long, 605-foot, block, which is characteristic of the area. Most of the lots on this block and in the surrounding area are 5,000 square feet. The block across SE Rural Street from the site has a few lots that are approximately 10,000 square feet in size, but the majority of lots in the surrounding area are 5,000 square feet. All of the lots in the area are developed with single family dwellings. A public school is located about 300 feet northeast of the site, and a church is located approximately 700 feet north of the site.

Infrastructure:

• **Streets** – The City's Transportation System Plan (TSP) classifies SE Rural as a Local Service street for all modes. It is improved with approximately 18 feet of center strip paving within a 50-ft right-of-way. There are no curbs or sidewalk corridors

The site has approximately 100 feet of frontage on SE Rural Street, with one driveway entering the site that served a recently demolished house. Tri-Met provides transit service approximately 1,000 feet from the site on Se 52nd Avenue via Bus 71.

- **Water Service** There is an 8-inch DI water main in SE Rural Street, which may potentially be used to provide service to proposed Parcel 1. A new water service and meter must be installed within the public right of way and within the specific property boundary/frontage for which it will serve for proposed Parcel 2. Any construction that requires water must have a service and a meter of appropriate size installed within the public right-of-way, within the specific property boundary/frontage that it will serve.
- **Sanitary Service** There is an existing 8-inch PVC public sanitary sewer located in SE Rural. An existing lateral that was capped when the house was demolished may be used to provide service to Parcel 2. Parcel 1 will require construction of a new lateral. These laterals must be shown on a Supplemental Plan submitted with the Final Plat.
- **Stormwater Disposal** There is no public storm-only sewer currently available to this property. The Bureau of Environmental Services has no objections to the proposed drywells for the site, but notes that the Oregon Department of Environmental Quality regulates drywells and it is the applicant's responsibility to register all on-site UIC (underground injection control) facilities with the DEQ.

Zoning: The R5 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 **April 29**, **2013**. 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	ion Code Chapter/Section Findings: Not applicable because:		
	and Topic		
С	33.631 - Flood Hazard Area	The site is not within the flood hazard area.	
D	33.632 - Potential	The site is not within the potential landslide	
	Landslide Hazard Area	hazard area.	
E	33.633 - Phased Land	A phased land division or staged final plat has not	
	Division or Staged Final	been proposed.	
	Plat		
F	33.634 - Recreation Area	The proposed density is less than 40 units.	
Н	33.636 - Tracts and	No tracts or easements have been proposed or will	
	Easements	be required.	
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on	
		a corner). In this context, solar access standards	
		express no lot configuration preference.	
J	33.640 - Streams, Springs,	No streams, springs, or seeps are evident on the	
	and Seeps	site outside of environmental zones.	
L	33.654.110.B.2 - Dead end	No dead end streets are proposed.	
	streets		
	33.654.110.B.3 -	The site is not located within an I zone.	
	Pedestrian connections in		
	the I zones		
	33.654.110.B.4 - Alleys in	No alleys are proposed or required.	
	all zones		
	33.654.120.C.3.c -	No turnarounds are proposed or required.	
	Turnarounds		
	33.654.120.D - Common	No common greens are proposed or required.	
	Greens		
	33.654.120.E - Pedestrian	There are no pedestrian connections proposed or	
	Connections	required.	
	33.654.120.F - Alleys	No alleys are proposed or required.	
	33.654.120.G - Shared	No shared courts are proposed or required.	
	Courts		
	33.654.130.B - Existing	No public dead-end streets or pedestrian	

public dead-end streets	connections exist that must be extended onto the
and pedestrian connections	site.
33.654.130.C - Future	No dead-end street or pedestrian connections are
extension of dead-end	proposed or required.
streets and pedestrian	
connections	
33.654.130.D - Partial	No partial public streets are proposed or required.
rights-of-way	

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Minimum density in the R5 zone at this site is 1.6 units per 5,000 square feet, which rounds up to 2 units. The maximum density is one unit per 5,000 square feet, which also equals 2 units. When minimum and maximum densities are equal, the minimum required density is automatically reduced to one less than the maximum.

The applicant is proposing 2 single dwelling parcels. Therefore, the density standards are met.

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

R5 Zone	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
	3,000	8,500	36	50	30
Parcel 1 Parcel 2	4,800 4,800	4,800 4,800	50 50	100 100	50 50

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

Consistent with the Purpose of Lot Dimension Regulations

The purpose of Lot dimension regulations are as follows:

The lot dimension regulations ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The applicant has demonstrated that the proposed Parcels 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 parcels can accommodate a reasonably sized house and garage while meeting the development standards of the zoning code.

- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services
- The proposed lots are compatible with existing lots because most of the other lots on this long block are 5,000 feet in area.
- The proposed lots are not landlocked nor do they narrow to an unbuildable width close to the street

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 detached houses on 50 foot wide lots.

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

• The applicant has demonstrated, with Exhibit C.1 that each lot will be built with a house that is greater than 22 feet in width and will be able to accommodate a garage that will occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.E can be 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 inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Norway maple	15	Yes	No	NA
2	Flowering Dogwood	8	No	No	8 feet

The total non-exempt tree diameter on the site is 8 inches. The applicant proposes to remove Tree 200, the Flowering Dogwood, which comprises of 8 inches of diameter, or 100 percent of the total non-exempt tree diameter.

The arborist report contains an inventory of trees within the land division site, evaluates their conditions and specifies root protection zones (Exhibit A.2). The applicant's arborist exempted the only two trees on the site, stating that one is an unhealthy, nuisance species (Norway maple), and the other, an 8-inch, apparently healthy, flowering dogwood.

The arborist selected an alternative to preserving trees on the site and used the Mitigation Option C.4 of 33.630.300 to justify removal of the existing tree on the site. This Option states: It is not possible under any reasonable scenario to meet Section 33.630.100 and one of the following: (the arborist selected C.4, as stated below)

C.4. On sites 15,000 square feet or less in area, 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.

The site, at 10,000 square feet meets the first part of C.4 above. However, a case was not made that a reasonably sized building site would not exist if the tree were preserved. The fact that the property was previously developed with a single dwelling, while allowing the dogwood to grow and thrive, disproves the arborist's conclusion that it was not possible under any reasonable scenario to develop the site and retain the tree. There is approximately 2,050 square feet behind the dogwood location available for new house construction on proposed Parcel 1. It is clear that a single dwelling could have been constructed farther to the south, behind the tree, in order to have preserved the dogwood.

Chapter 33.630.300 requires the applicant to <u>preserve</u> as many trees on the site as possible, as well as to submit a mitigation plan that adequately mitigates for the tree loss. As described above, it would have been possible, although perhaps, not convenient, to preserve the 8-inch dogwood and construct a new house behind the tree. The applicant did not provide evidence to suggest that a new house could not be constructed at the rear of the proposed parcel.

The reason provided for exempting the dogwood was that it was not possible <u>under any circumstances</u> to meet the tree preservation requirements and construct a house on the site. Although the dogwood was subject to the preservation requirements of this chapter, it was removed prior to the public review and approval process required by this land partition review. Staff understands that the dogwood was removed in conjunction with the house demolition, which was approved in March 2012 and which occurred later during the summer of 2012. However, the land division partition was submitted on January 24, 2012, pre-dating the house demolition application and approval. Therefore, the dogwood tree was subject to the preservation requirements and should not have been removed until or unless its removal was authorized by this land division.

Although staff has not requested a violation review for the premature removal of the dogwood, such action would have ultimately resulted in a requirement for the applicant to plant 3 trees in accordance with tree violation requirements (33.853.040, Table 853-1).

The arborist determined that planting two, 1.5 inch caliper trees on the site would mitigate removal of the dogwood, which would normally have been the case had the tree's removal been approved through this land use review.

Therefore, instead of planting only the two 1.5-inch caliper mitigation trees called for by the arborist, one additional tree must also be planted, resulting in three 1.5 caliper-inch trees that must be planted on the site. These trees can be distributed on both Parcels 1 and 2. The locations of these trees must be shown on a Supplemental Plan submitted with the Final Plat review. Planting these additional trees on both parcels will help disburse the trees on the site without jeopardizing their overall health or that of the trees to be planted to meet the T1 requirement of the Ch. 33.248.020, *Landscaping and Screening*. Therefore, five 1.5-caliper inch mitigation trees must be provided in addition to the trees required to meet the T1 requirement.

To ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat.

Therefore, the following conditions are required:

- Development on Parcels 1 and 2 shall be carried out in conformance with the conditions of approval in this Decision, and an Acknowledgement of Tree Preservation Requirements shall be recorded with the final plat to ensure that future owners will be aware of the tree preservation requirements associated with these Parcels.
- The locations of the 3 required 1.5-inch trees must be shown on a Supplemental Plan submitted with the Final Plat.
- The Residential Permit must verify and provide final inspection approval that these 3 trees have been planted on Parcels 1 and 2, prior to final building permit approval for new houses on these lots and per the approved locations shown on the Supplemental Plan.

With the conditions noted above for mitigation, these criteria can be met.

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. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated.

Land Suitability

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

PBOT noted that at this location, based on City GIS resources, SE Rural is improved with approximately 18 feet of center strip paving within a 50-foot right-of-way. There is no existing curb or sidewalk corridor. Based on PBOT's standards, SE Rural should include a 58-foot right-of-way, comprised of a 28-foot paved section and 15-foot wide sidewalk corridors on each side of the street.

To accommodate the required right-of-way and the above referenced street paving/sidewalk corridor along the site's SE Rural frontage, the applicant will be required to dedicate 4 feet of property, which must occur prior to Final Plat approval. The dedication must be shown on the final plat.

The required right-of-way improvements must be designed by an Oregon licensed civil engineer and constructed under a Public Works Permit issued by (at least) Portland Transportation separate from the Building Permit process. The applicant has already entered into the Public Works Permitting Process, and must complete it.

Plans, fees, a contract/permit application and a performance guarantee for the estimated value of the right-of-way improvements must be submitted prior to Final Plat approval. Four feet of property must be dedicated and must be shown on the Final Plat.

With the conditions listed above, the applicant will be able meet the requirements of the Transportation Bureau.

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

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. 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 3 of this report. The sanitary sewer service standards of 33.652 have been verified. An existing lateral may be used to service Parcel 2 at the time of redevelopment. Parcel 1 will be required to construct a new lateral at the applicant's or owner's expense at the time of development.

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

BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater. No stormwater tract is proposed or required. Therefore, criterion A is not applicable

Parcels 1 and 2: Stormwater from these parcels will be directed to drywells that will treat the water and slowly infiltrate it into the ground. To ensure there is adequate area for the drywells, the proposed locations must be shown on a Supplemental Plan.

The Oregon State Department of Environmental Quality (DEQ) must approve drywells. In addition, existing drywells must be decommissioned under the authority of DEQ as well.

Public Street Improvements: To accommodate a public stormwater facility to treat stormwater from the required street improvements within the public right-of-way, a 4-foot dedication along the frontage of the site must be provided on the final plat.

The Bureau of Environmental Services notes that public right-of-way improvements are required and that the applicant has begun the process for completing those improvements, which include an 8-foot wide stormwater management facility. BES requires a Public Works Permit for improvements to SE Rural that meet the Stormwater Management Manual (SWMM) requirements. Prior to final plat approval, the applicant must submit engineered plans, a financial guarantee and fees for the public works permit, subject to BES approval.

Any dedication necessary to accommodate stormwater management facilities for public right of way improvements must be shown on the final plat.

A supplemental plan must be submitted with the Final Plat application to show on-site and public improvements in accordance with BES and PBOT requirements.

33.654.110.B.1 Through streets and pedestrian connections

33.654.130.B Extension of existing public dead-end streets & pedestrian connections 33.654.130.C Future extension of proposed dead-end streets & pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements. The spacing goals are generally satisfied in the area in the east-west direction, but not in the north-south direction. However, no street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. No further street or pedestrian connections are physically possible without impacting existing development in the general area and beyond. Providing any further connectivity elsewhere on the subject block would lead to no other connection points, again, given the existing, long established development pattern throughout this area. PBOT has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.

Therefore, this criterion is not applicable.

33.641 - Transportation Impacts - 33.641.020 and 33.641.030

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

33.654.130.D Partial Rights 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. The City Engineer requires a site's frontage to be improved to City Standards for any building permit or land use action that increases occupancy, and therefore requires the following improvements:

As noted previously, SE Rural Street is improved with approximately 18 feet of center strip paving within a 50-foot right-of-way. There are no curbs or sidewalk corridors. The street should include a 58-foot right-of-way comprised of a 28-foot paved section and 15-foot sidewalk corridors on each side of the street. There are no curbs, planter strips, or sidewalks. 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 case Portland Transportation has determined that curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed earlier, 4 feet of additional right-of-way must be dedicated along the frontage of the site.

PBOT is requiring the applicant to provide 20 feet of paving along the length of the site's SE Rural frontage, construct a 15-foot wide sidewalk corridor (including a 0.5-foot wide curb, 8-foot wide stormwater management facility, 6-foot wide sidewalk with a 0.5-foot wide frontage zone, with the new curb to be located 14 feet from the centerline of the right of way.

With these improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided. Plans, fees, a contract, and a performance guarantee for the estimated value of the right of way improvements must be submitted prior to Final Plat approval

Therefore, this criterion is met with conditions for improvements that are made as described above and as approved by PBOT, that financial assurances are made, and that the required right-of-way dedication and public improvements are shown on the Final Plat.

DEVELOPMENT STANDARDS

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

Because the site is currently vacant, the division of the property will not cause any structures to move out of conformance or further out of conformance with any development standard applicable in the R5 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	Title 24 – Building Code, Flood plain
www.portlandonline.com/bds	Title 10 – Erosion Control, Site Development

	Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740	Title 17 – Sewer Improvements
www.portlandonline.com/bes	2008 Stormwater Management Manual
Fire Bureau/503-823-3700	Title 31 Policy B-1 – Emergency Access
www.portlandonline.com/fire	
Transportation/503-823-5185	Title 17 – Public Right-of-Way Improvements
www.portlandonline.com/transportation	Transportation System Plan
Urban Forestry (Parks)/503-823-4489	Title 20 – Street Trees and other Public Trees
www.portlandonline.com/parks	
Water Bureau/503-823-7404	Title 21 – Water availability
www.portlandonline.com/water	

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

- The applicant must meet the requirements of the Fire Bureau in regard to ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; 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 along all public frontages of the site as determined by the City Forester at the time of plan review. This requirement is based on the standards of Title 20.

CONCLUSIONS

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

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

ADMINISTRATIVE DECISION

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

- **A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use and BES review and approval. This 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 driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed locations of the 3 required 1.5-inch diameter trees;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots;
- Required on-site and public improvements in accordance with BES and PBOT requirements;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

- 1. The City Engineer-required right-of-way dedication for SE Rural Street must be shown on the final plat.
- 2. A recording block for the legal documents for the acknowledgement of special land use conditions, as required by Condition C.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation has been recorded as Document No. _______ Multnomah County Deed Records."

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

Streets and Alleys

1. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide engineered plans, fees, a contract/permit application and performance guarantees for the right of way improvements as required by PBOT and BES prior to Final Plat approval.

Utilities

2. 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.

Required Legal Documents

3. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes the tree preservation requirements that apply to Parcels 1 and 2 for the 3 trees required in D.1 below. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

1. The applicant shall obtain a Bureau of Development Services Zoning Permit and receive final inspection approval verifying installation of three 1.5-caliper inch trees on Parcels 1 and 2, prior to final building permit approval for new houses on Parcels 1 and 2, and per the approved locations shown on the Supplemental Plan. These 3 trees are in addition to any T.1 tree planting requirements for the site.

Staff Planner: Kathy Harnden

Decision rendered by: ______ on (July 12, 2012

By authority of the Director of the Bureau of Development Services

Decision mailed July 16, 2013

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

Procedural Information. The application for this land use review was submitted on January 24, 2012, and was determined to be complete on July 31, 2012.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on January 24, 2012.

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 waived the 120-day review period, as stated with Exhibits G.4 and G.5. Unless further extended by the applicant, **the 120 days will expire on: July 30, 2013.**

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

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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

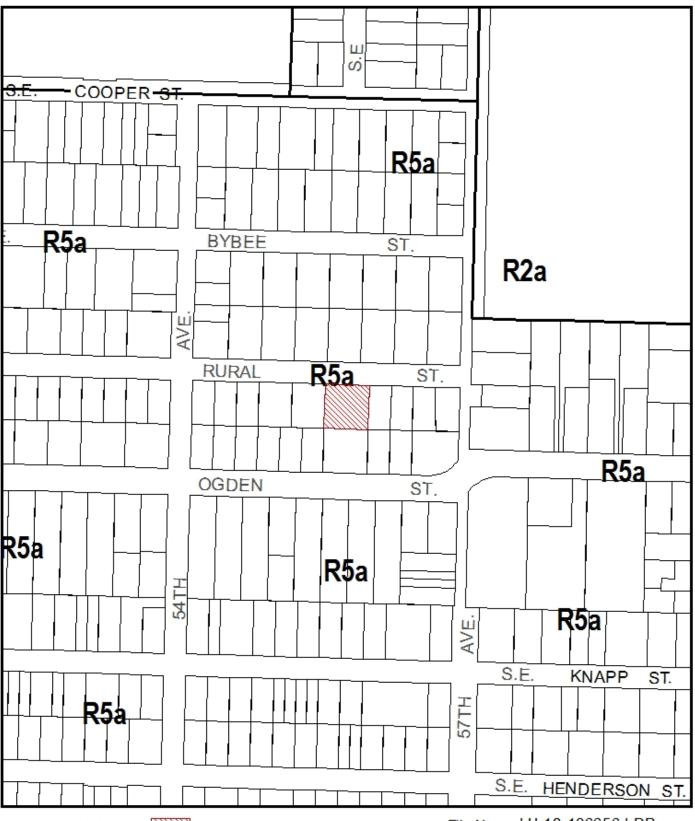
Recording the land division. The final land division plat must be submitted to the City within three years of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate,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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Response to Approval Criteria
 - 2. Tree Mitigation Plan
 - 3. Response to Approval Criteria, 2
 - 4. Stormwater Simplified Approach
 - 5. Proposed Stormwater system/Infiltration Tests
 - 6. Response to Approval Criteria, 3
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life/Safety
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter w/Service Bureau Requests
 - 4. 120-Day Extension Request
 - 5. Incomplete Reminder Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).

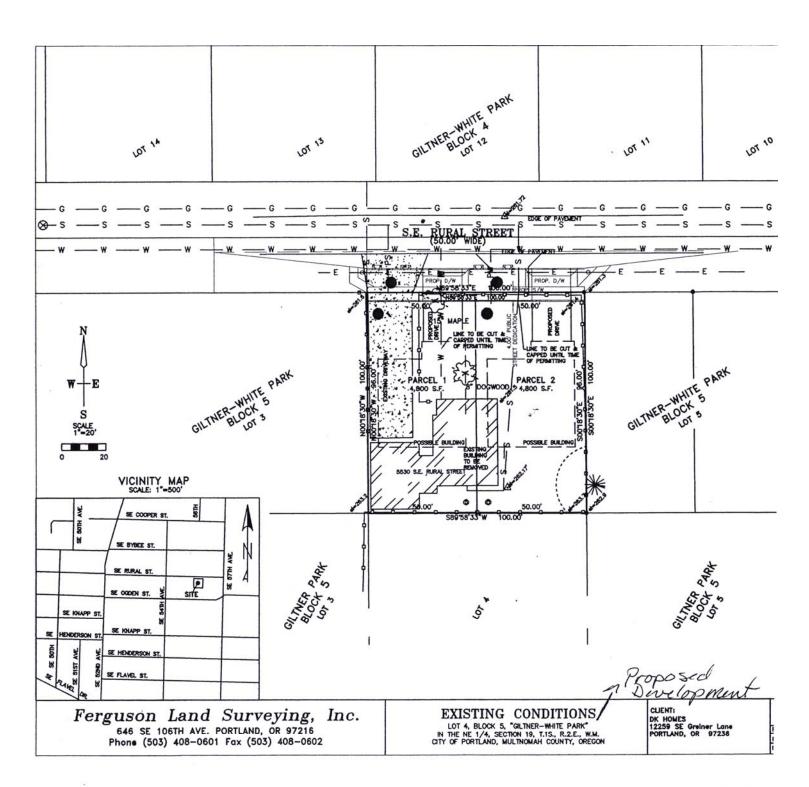


ZONING Site



File No. _ LU 12-106656 LDP 3736 1/4 Section _ 1 inch = 200 feet Scale. 1S2E19AC 1400 State_Id В (Jan 25,2012) Exhibit _





LU 12-1066566DP Exhibit C.1