



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: November 8, 2012 **To:** Interested Person

From: Sean Williams, 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 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 12-142972 LDP

GENERAL INFORMATION

Applicant: Thomas Burton / Burton Engineering

8401 NE Halsey Street, #104 / Portland, OR 97220

Owners: Edgardo & Ana-Maria Rivera

2220 SE 174th Avenue / Portland, OR 97233

Site Address: 2220 SE 174th Avenue

Legal Description: TL 6300 0.74 ACRES, SECTION 06 1S 3E

Tax Account No.: R993061670 **State ID No.:** 1S3E06DC 06300

Quarter Section: 3248

Neighborhood: Centennial, contact Tom Lewis at 503-347-5715.

Business District: None

District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.

Plan District: None

Zoning: Residential 7,000 (R7) w/ Alternative Design Density Overlay (a)

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 is requesting to divide the subject property into three parcels ranging in size from 7,298 to 11,220 square feet. Access is proposed via a standard private street tract.

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).

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 3 units of land. Therefore this land division is considered a partition.

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

FACTS

Site and Vicinity: The site is located on the east side of SE 174th Avenue approximately 585 feet north of the intersection with SE Division Street. Existing development consists of a single family home that will be retained within proposed Parcel 1 and various other accessory structures that will be demolished. The site is relatively flat with 9 trees present subject to preservation standards. The surrounding vicinity is primarily composed of Single-Family zoning and development. The City limits boundary borders the eastern property line of the site.

Infrastructure:

• **Streets** – The site has approximately 100 feet of frontage on SE 174th Avenue. There is one driveway entering the site that serves the existing house. At this location, SE 174th Avenue is classified as a Neighborhood Collector in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 580 feet from the site on SE Division Street via Bus #4. Parking is currently allowed on both sides of SE 174th Avenue.

According to City database sources, SE 174th Avenue along the frontage of the site is improved with approximately 30 feet of paving width and a variable width gravel shoulder in an approximately 60 foot wide right-of-way. There is no curb or sidewalk along the site frontage.

- **Water Service** The site is located within the Rockwood Water People's Utility District. There is an existing 8-inch OD Steel main in SE 174th Avenue. The existing house is served by a metered service from this main.
- **Sanitary Service** There is an existing 8-inch PVC public sanitary sewer line in SE 174th Avenue. The existing house is served by a lateral from this main approximately 161 feet south of the downstream manhole, which is at the southern edge of the intersection of SE Grant Street and 174th Avenue.

Zoning: The R7 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.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is <u>not</u> using any of the provisions of the "a" overlay.

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. Please see Exhibits "E" for details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **August 2, 2012**. 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	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	Maintaining existing development on the site limits	
		new parcel configuration (33.610.200 supercedes	
		33.639).	
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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.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.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. The applicant is proposing 3 single family parcels for detached houses to be served by a private street tract. The minimum and maximum density for the site is as follows:

Minimum = $(32,906 \text{ square feet * } .68) \div 7,000 \text{ square feet = } 3.19 \text{ (which rounds down to a minimum of 3 lots, per 33.930.020.A)}$

Maximum = $(32,906 \text{ square feet * .85}) \div 7,000 \text{ square feet = 3.99}$ (which rounds up to a maximum of 4 lots, per 33.930.020.B)

The applicant is proposing 3 parcels. 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)
R7 Zone	4,200	12,000	40	55	30
Parcel 1	11,220		78	143	78
Parcel 2	7,298		93	78	93
Parcel 3	7,874		100	80	31

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

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

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.2). A total of 9 trees were inventoried, of which 2 trees were determined to be exempt as they were either considered hazardous or located partially within the right-of-way. Thus, 7 non-exempt trees are located within the land division site. These non-exempt trees comprise 109 inches in total diameter for the purposes of chapter 33.630.

The applicant proposes to preserve trees #206 (17" Noble Fir), #208 (13" Noble Fir) and #209 (11" Noble Fir), which comprise of 41 inches of diameter, or 37 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Preliminary Partition Plat showing the preserved trees (Exhibit C.1). The arborist report did not make specific recommendations regarding root protection zones. Therefore, each tree shall maintain a standard root protection zone (33.930.140) of 1 foot radius for each 1 inch diameter of tree.

In order 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.

This criterion is met, subject to the condition that development on Parcels 1 and 2 be carried out in conformance with the Preliminary Partition Plat (Exhibit C.1) and the applicant's arborist report (Exhibit A.2) and an acknowledgement of tree preservation requirements is recorded with the final plat.

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 relatively flat, and is not located within the Potential Landslide Hazard Area. However a new street is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Partition Plat (Exhibit C.1) and Private Street Plan (Exhibit C.3) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas and the overall limits of disturbed area.

The proposed clearing and grading shown on Exhibit C.1 and C.3 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed via pervious pavement to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street and the preparation of the lots, without being excessive. The applicant has indicated that site grading will be limited to the area of the private street only and parcels are to be graded at the time of building permit. The applicants clearing and grading plan will allow for a reasonable maneuvering area for earth-moving equipment needed to level the street. In addition, no clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved.

The clearing and grading plan indicates areas of topsoil storage and general stockpiling that are located in close proximity to the new street tract, and outside of the root protection zones of the trees on the site to be preserved.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan, 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. Although the site is currently connected to the public sanitary sewer, there are multiple old cesspools on the site. The City has no record that these facilities were ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of these facilities. With this condition, the new lots can be considered suitable for new development, and this criterion is met.

- K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,
- 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 standards of 33.651 have been verified and noted earlier in this decision. Water is available to serve the proposed development from the water main in SE 174th Avenue. Parcel 1 has an existing water service from that main. This criterion is met.

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

The sanitary sewer standards of 33.652 have been verified and noted earlier in this decision. There is an existing public sanitary sewer located in SE 174th Avenue that can serve the sanitary needs of the proposed Parcels. Parcel 1 has an existing sewer service from that main. This criterion is met.

33.653.020 & .030 Stormwater Management criteria and standards- See Exhibits E.1 & E.5

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. The applicant has proposed the following stormwater management methods:

- **Private Street:** Stormwater associated with the private street tract will be managed via pervious pavement. The applicant has submitted stormwater calculations (Exhibit A.4) and soil test results that indicate the native soils will adequately infiltrate stormwater and the private street will be sloped back to SE 174th Avenue in order to provide an escape route during large storms. The Bureau of Environmental Services and Site Development section of BDS have indicated conceptual approval of this method of stormwater management for the private street.
- **Public Street Improvements:** Stormwater from these new impervious areas will be directed into an 8-foot wide infiltration swale located between the curb and the new sidewalk. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has confirmed that the proposed swale is of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas. To accommodate this stormwater facility within the public right-of-way, a dedication along the frontage of the site must be provided on the final plat. BES requires a Public Works Permit for the construction of such a swale. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval.
- Parcel 1 (the lot with the existing house): The existing house has downspouts that are directed to an individual drywell that treats the water and slowly infiltrates it into the ground. This stormwater disposal system meets required setbacks for infiltration facilities from the new property lines.
- **Parcels 2 and 3:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. The Bureau of Environmental Services has indicated conceptual approval of the drywells.

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 Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

This area is similar to other areas/neighborhoods throughout outer south-east Portland that was annexed from Multnomah County. The area was made up of large lots with streets constructed largely without the benefit of sidewalks. In time, the larger lots have been reconfigured as a result of land divisions similar to the subject request, with numerous private streets serving each incremental subdivision. As a result, given previous City actions, development has occurred without the benefit of providing connections (vehicular or pedestrian) for, in some cases, considerable distances. The area in question, suffers from such existing conditions; neither of the City's connectivity goals are satisfied, especially in the east-west direct. The subject partition request is not uncommon in addressing the connectivity deficiencies in this broader area of the city considering the pattern and type of development that has occurred in the vicinity of the site. A subdivision was created and built out at the rear of the subject site, thereby precluding any potential for connections, in this case through the subject site. The applicant cannot provide even a pedestrian connection through the site (towards the east [or north/south]) given the location of existing homes. PBOT recognizes the larger scale deficiency in connectivity throughout the area, but the applicant's proposal cannot be attributed with being the cause of said lack of connectivity. Accordingly, PBOT is supportive of the proposed partition request, without any amenities to further the City's connectivity goals. It should be acknowledged however, that the applicant will be constructing public right-of-way improvements along the frontage of the site which will enhance.

For the reasons described above, this criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.

The proposal includes a private dead-end street and pedestrian connection, which will be located in the new private street tract. As discussed under the findings for through streets above, a new public east-west through street is not required for this proposal. The private dead-end street will serve only 3 dwelling units and it is approximately 245-feet in length from the frontage along SE 174th Avenue. This criterion is met.

33.641 - Transportation Impacts - 33.641.020 and 33.641.030 33.654.120.B & C Width and elements of the street right-of-way 33.654.130.D Partial Rights of way

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 generally do not require a formal transportation impact study, even though such a study will usually be required for larger projects (Title 17 includes technical standards describing when a more formal study is required). The Portland Bureau of Transportation/Development Review (PBOT) has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. PBOT's Analysis (Exhibit E.2) is quoted, in part, as follows:

The Rivera 3-Lot Development will construct two additional single-family homes that will provide senior adult foster-care. The homes will be built adjacent to the existing home that now accommodates five foster care units. Parking will be provided on-site with eight vehicle spaces (including two handicap spaces). Sufficient space for truck loading and unloading on the proposed 20-ft wide private street will also be provided. The study area was defined as the surrounding neighborhood streets including 174th Ave and Division St.

For analysis purposes the trip generation for the proposed development was estimated using trip rates published in the Institute of Transportation Engineers (ITE) Trip Generation manual (8th edition, year 2008). For the new housing the Single-Family (ITE code #210) category was applied

to calculate the weekday trips and the number of trips occurring in the AM & PM peak hours. It should be noted that the trip rates for Senior Adult Housing (ITE code #251) is lower than for the single-family code and therefore a worst case analysis was applied for the study. Development of Rivera 3-Lot Development is expected to generate 19 daily trips, with 2 AM peak hour trips, and 2 PM peak hour trips.

Capacity analyses were performed to determine the levels of service for the weekday peak hours. Highway Capacity Software (HCS) was used to determine the level of service for each scenario considered. The program is based on the year 2000 Highway Capacity Manual methodology. The study intersection at SE 174th Ave/SE Division St will continue

to operate at level of service LOS 'C' or better through the site's development. This intersection operation meets or exceeds the City of Portland's level of service standards and as a result no intersection improvements are necessary.

Vehicle queue length data at the intersection of 174th Ave/Division St was reviewed from output available in the capacity analysis Traffic reports. The longest queues occur in the PM peak hour. For all of the scenarios (existing, background, and total traffic) the eastbound left turn queue is 4 vehicles and will not exceed the available 150-ft storage length. For all of the scenarios the westbound left turn queue is 8 vehicles and will not exceed the available 200-ft storage length. Queuing on 174th Ave will increase by only 1 vehicle in the southbound direction (from 9 to 10 cars) and by 2 cars in the northbound direction. The increase will not result in any intersection conflicts.

Accordingly, the applicant has adequately demonstrated that there will not be any level of service impacts.

Vehicle access and loading

Vehicle access and loading will be via on-street parking in the site vicinity as well as a new private street serving each of the proposed lots (it is noted that the applicant's site plan shows additional driveways on at least Parcel 1 and the TIS indicates that there will be a total of 8 vehicle parking spaces on-site). The proposed site plan adequately accommodates vehicle access and loading.

On-street parking impacts

Since the proposed development may use street parking to supplement the on-site parking provided, the applicant's traffic consultant conducted an analysis of existing parking supply/demand throughout the day and projected future parking demands upon completion of the proposed development.

Staff identified a study area covering 174th Ave from Sherman St to Stephens St and the associated side streets along 174th Ave in this area. The on-street parking capacity was estimated using a conservative parking stall design length of 25-ft (22-ft average length suggested by AASHTO). The block length used to calculate the parking capacity took into account the width of the existing streets, driveways, mailboxes, fire hydrants, and posted no-parking zones. A total of 138 spaces were determined to be the available on-street parking capacity.

Several parking surveys were conducted in February 2012 in addition to the historical parking surveys completed in 2011 for a different residential care facility/project to estimate the current onstreet parking demand. Surveys were conducted on weekdays in the morning (between 6:00 am & 6:30 am), mid-day (noon hour), and evening (between 7:15 pm & 7:30 pm). In addition another survey was performed on a Saturday early afternoon.

The survey periods were selected in order to establish a base of current parking demand that can be compared to the area's parking capacity. The results of the surveys are shown below.

Survey Time	Parking Capacity (spaces)	# Parking Spaces Used	% Capacity Used	Unused # Spaces
Weekday 6:00 am	138	26	19%	112
Weekday 12 Noon	138	10	7%	128
Weekday 7:30 pm	138	21	15%	117
Saturday 2 pm	138	26	19%	112

As identified in the table above, parking demand in the area is sufficiently low enough to accommodate additional demand if necessary. However, sufficient parking will be provided on-site for the 3-lot development and there will be no impacts to the on-street parking conditions.

Availability of transit service and facilities and connections to transit

There are no Tri-Met bus routes in the immediate vicinity of the site. Tri-Met does provide frequent bus service approximately 0.10 mi south of the site along SE Division via bus route #4.

Impacts on the immediate and adjacent neighborhoods

Traffic volumes on area roadways and at area intersections are not expected to change significantly upon completion of the proposed development. The addition of the expected project related number of site trips on nearby streets and through the intersections in the site vicinity and beyond, during the peak hours, will have no noticeable impacts to immediate and adjacent neighborhoods. No significant operational or safety problems were identified, and no improvements are proposed.

As identified previously, the inclusion of 8 on-site parking spaces as well as a sufficient on-street parking supply in the site vicinity will result in no adverse impacts to neighbors in the area with respect to on-street parking.

Site generated traffic impacts on the local/nearby transportation system as well as adverse impacts to available on-street parking supply are typically the areas associated with new development that have the potential for greatest impacts to immediate and adjacent neighborhoods. As noted above, these impacts are not expected with the proposed partition.

Safety for all modes

No safety problems are projected as a result of the proposed development. Sight distance at the proposed site access location was reviewed in the field in accordance with AASHTO standards. Based on a posted speed of 35 mph, AASHTO recommends a minimum sight distance of 390-ft be available in both directions at the access. The alignment on 174th Ave is tangent without a vertical grade. The intersection sight distance at the proposed access location was determined to be over 500-ft in each direction.

Left turn lane warrants were reviewed at the site access location on SE 174th Ave to determine if a separate northbound left turn lane is required. Due to the volume conditions on SE 174th Ave and the left turn volume demand the warrant is not met.

Accident data for the study intersection at SE 174th Ave/Division St was requested from Oregon Department of Transportation staff. The intersection report provided by ODOT looked at a five-year period (January 2005 through December 2009) and documented that a total of 39 accidents occurred. A crash rate of 0.78 crashes per million entering vehicles (M.E.V.) was determined for this location. The rate is less that the threshold value of 1.0

M.E.V. that is considered the rate at which safety mitigation should be considered. As a result no safety improvements are recommended at the signalized intersection of SE 174th Ave/Division St.

Sidewalks are provided along portions of SE 174th Ave with frequent gaps between the sidewalk segments. Where sidewalk is not available pedestrians must use the shoulder areas that consist of dirt surfacing. A new sidewalk corridor will be constructed to City standards along the development's frontage length. Bicycle lanes are provided on both sides of Division St. but not along SE 174th. Bicyclists are expected to share the roadway with vehicles on streets with low volumes. Additional bicycle lanes are not proposed.

Based on the information supplied, the methodology, assumptions and conclusions made by the applicant's traffic consultant, which PBOT concurs with, the transportation system is capable of safely supporting the proposed development is addition to the existing uses in the area.

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. Based on the preceding analysis, 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 in this report, additional right-

of-way must be dedicated along the frontage of the site. With those improvements, the proposed development can be safely served by this existing street without having any significant impact on the level of service provided.

The applicant has proposed a 22-foot wide tract to accommodate the expected users. The Administrative Rules for Private Rights of Way are the standards that govern the construction of private streets. These rules recommend a roadway width of 20-feet for dead-end streets less than 300 feet long, serving 1-3 lots. This width will provide room for the construction of an 18-foot roadway surface, two 1-foot mountable curbs, and a 2-foot setback between the street improvements and the adjacent private property to the south. In this proposal, stormwater will be managed via pervious pavement. Because a typical planter strip is not present within the street tract, the applicant will be required to plant one street tree within the front yard of each lot, within 5-feet of the street tract. The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 3 parcels by the Administrative Rules governing private streets.

With the conditions of approval described above, 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, 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 development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R7 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:

- <u>Minimum Setbacks</u> The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed <u>new</u> lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. In this case, the applicant has proposed to modify the southern elevation of the house in order to comply with setback (side) requirements to the new private street tract. Therefore, the applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Parcel 1 that demonstrate compliance with the following standards in relation to the proposed new lot lines:
 - 33.110.220 (Setbacks--specifically, the permit must show removal of sufficient portions of the house to meet the side setback requirement of 5 feet in the R7 zone);
 - 33.110.232.C (standards for Street-Facing Facades in the R10-R2.5 Zones).

To ensure these standards are met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the modified building relative to the adjacent new lot lines.

- <u>Accessory Structures</u> In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures located with Parcels 2 and 3 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Required Off-Street Parking In this zone, one parking space per dwelling unit is required. A paved parking pad/garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.

With the conditions noted above, 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	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17, Transportation System Plan Design of public street	503-823-5185 www.portlandonline.com/transportation
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 www.portlandonline.com/bds

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 is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title

17 and Title 24.

- The applicant must meet the requirements of the Fire Bureau in regards to:
 - Fire apparatus access;
 - ➤ Providing an Emergency Vehicle Access Easement over the private street tract;
 - Posting of "No Parking" signs in the private street;
 - Ensuring adequate hydrant flow from the nearest fire hydrant;
 - Addressing of structures and the private street;
 - > Turning radius; and
 - > Aerial Fire Department access roads.

These requirements are based on the technical standards of Title 31 and Oregon Fire Code (Exhibit E.4).

• The applicant must meet the requirements of Urban Forestry for street tree planting with the new street improvements required along the site's SE 174th Avenue right-of-way frontage. This requirement is based on the standards of Title 20 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a 3 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: Transportation Impacts.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition that will result in three standard lots and a private street tract, 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 Fire Bureau and Land Use review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside;
- The as-built location of the modified house that will remain on proposed Parcel 1 that demonstrates compliance with required setbacks, per Condition C.9 below;
- The as-built location the replacement parking space to be installed on Parcel 1 per Condition C.10 below;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

- 1. The applicant shall meet the street dedication requirements of the City Engineer for SE 174th Avenue. The required right-of-way dedication must be shown on the final plat.
- 2. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the entirety of the private street to the satisfaction of the Fire Bureau.
- 3. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street (name of street)".
- 4. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.11 and C.12 below.

The recording block(s) shall, at a minimum, include language 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."

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

- 1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's SE 174th Avenue frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.
- 2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibits C.1 and C.3 and the Private Street Administrative Rule. In addition, one street tree shall be planted on Parcel 1 within 5-feet of the tract boundary upon completion of the street improvements and prior to final inspection approval of the site development permit.
- 3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The design for the private street must include a driveway approach and curbs cuts in a location that can provide access to the new parking space required on the lot with the existing house that will remain. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
- 4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.2. The clearing and grading plan must substantially conform to Exhibits C.1 and C.3 approved with this decision.
- 5. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system(s) on the site.
- 6. 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.
- 7. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcels 2 and 3, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house(s) on Parcels 2 and 3, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.
- 8. The applicant must obtain finalized demolition permit(s) for removing the accessory structures on Parcels 2 and 3.
- 9. The applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Parcel 1 that demonstrates compliance with the following standards in relation to the proposed new lot lines:

- 33.110.232.C (standards for Street-Facing Facades in the R10-R2.5 Zones);
- 33.110.220 (Setbacks--specifically, the permit must show removal of sufficient portions of the house to meet the side setback requirement of 5 feet in the R7 zone);
- 10. A parking space shall be installed on Parcel 1. The parking space must be a minimum of 9' x 18' and located out of the new front setback for the lot with the existing house. In addition, it must be in a location that can be accessed from the new street. The applicant does not need to connect the new parking space to the existing street with a paved driveway to meet this condition. A connecting driveway can be provided after the new street has been constructed) A copy of the final inspection approval of a Zoning Permit shall be submitted, documenting that the parking space has been installed within the area to become Parcel 1. The new parking space must also be shown on the supplemental plan.
- 11. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Parcels 1-3 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
- 12. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcels 1 and 2. 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. Development on Parcels 1 and 2 shall be in conformance with the Preliminary Partition Plat (Exhibit C.1) and the applicant's arborist report (Exhibit A.2). Specifically, trees numbered #206 (17" Noble Fir), #208 (13" Noble Fir) and #209 (11" Noble Fir) are required to be preserved. Each tree shall maintain a standard root protection zone (33.930.140) of 1 foot radius for each 1 inch diameter of tree. 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. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
- 2. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
- 3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finaled for the new utility lines that will be constructed beneath the paved surface of the new street.
- 4. The applicant must post the private street with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
- 5. The applicant must meet the addressing requirements of the Fire Bureau for the private street. The location of the sign must be shown on the building permit.

- 6. If required, the applicant must meet any requirements identified through a Fire Code Appeal and/or install residential sprinklers in the new dwelling units on Parcels 2 and 3. Please refer to the final plat approval report for details on whether or not this requirement applies.
- 7. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
- 8. The applicant shall plant one street tree on Parcels 2 and 3 within 5 feet of the tract boundary. Trees planted to meet T1 (33.248.020.H) requirements may not be used to meet this condition.

Staff Planner: Sean Williams

Decision rendered by: ______ on November 5, 2012

By authority of the Director of the Bureau of Development Services

Decision mailed: November 8, 2012

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 23, 2012, and was determined to be complete on **July 30, 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 May 23, 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 Exhibit A.5.

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.

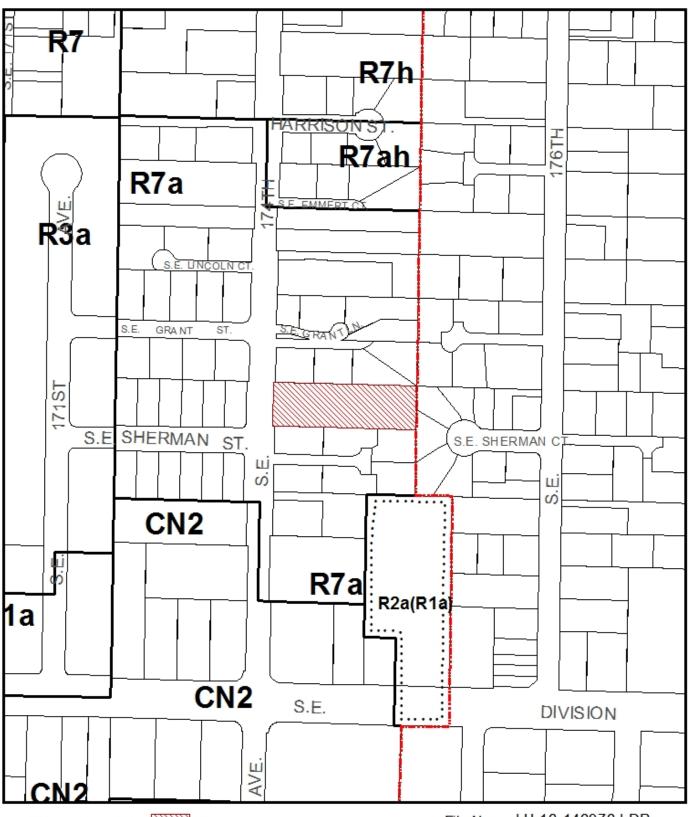
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Arborist Report
 - 3. Transportation Impact Study (TIS)
 - 4. Stormwater Infiltration Test
 - 5. Request for 120-day extension
 - 6. Applicant Correspondence
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Partition Plat (attached)
 - 2. Existing Conditions Plan
 - 3. Private Street Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services w/ Addendum
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Rockwood Water People's Utility District
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS w/ Addendum & Email
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete Letter & RFC Responses

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

Area of Work

File No. LU 12-142972 LDP

1/4 Section 3248

Scale 1 inch = 200 feet

State_Id 1S3E06DC 6300

Exhibit B (May 25,2012)



