



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

FROM CONCEPT TO CONSTRUCTION

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Date: November 14, 2013
To: Interested Person
From: Kate Green, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has **approved** a proposal in your neighborhood. The 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 775 Summer St NE, Suite 330, Salem, OR 97301-1283. 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 12-200604 LDP

GENERAL INFORMATION

Applicant: Ed Christensen/Welkin Engineering PC
25260 SW Parkway Avenue/Suite G / Wilsonville OR 97070

Owner: John M Berman
7175 SW Beveland Street #210 / Tigard OR 97223

Site Address: 5732 SE OGDEN STREET

Legal Description: LOT 13&14 TL 9700, ORAVILLE **Tax Account No.:** R629300530
State ID No.: 1S2E19AD 09700 **Quarter Section:** 3736
Neighborhood: Brentwood-Darlington / contact Cory Tyler / corguyptdx@yahoo.com
Business District: Woodstock Community Business Association/Sean Daugherty/503-754-2636
District Coalition: Southeast Uplift/Bob Kellett/503-232-0010
Zoning: Single Dwelling Residential 5,000 (R5)
Alternative Design Density Overlay (a)

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

Proposal: The applicant proposes a **Land Division-Partition** to divide an approximately 10,984 square foot property into 2 parcels for detached houses. Each parcel will be approximately 5,492 square feet. In order to redevelop the site, the existing house and sheds will be removed.

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 2 units of land (2 lots). 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 approximately 10,976 square foot in area and is relatively flat. Until recently, the site was developed with a single dwelling residence, which was removed via a demolition permit, 13-145676 RS, that finalized on September 10, 2013. An attached garage and several detached structures were also located on the site, as shown on the Existing Conditions Plan (Exhibit C.2) and based on a site visit on November 7, 2012. These structures are also proposed for removal. There are several large trees located along the street frontage, and several on the south half of the property.

Within a 500-foot radius, the surrounding development consists primarily of single-dwelling houses on lots that range in size from 2,300 to 40,000 square feet in size. There is also a multi-dwelling development to the east of the subject site, as well as several public school facilities, including Lane Middle School, to the east and north.

Infrastructure:

Streets – The site has approximately 100 feet of frontage on SE Ogden Street. SE Ogden Street is improved with a paved roadway, and a gravel parking lane on both sides. There are no curbs, planter strips, or sidewalks. There is one driveway entering the site that had served the former house on the site. At this location, SE Ogden Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service via Bus Line 71, approximately 900 feet to the south along SE Flavel, and approximately 1,500 feet to the west along SE 52nd Avenue.

Water Service – There is an existing 6-inch CI water main in SE Ogden Street. The existing house is served by a 5/8-inch metered service from this main. The estimated static water pressure range for this location is 51 psi to 64 psi at the existing service elevation of 263 feet.

Sanitary Service - There is an 8-inch PVC public sanitary-only sewer located in SE Ogden that can serve the sanitary disposal needs of this project (BES project #5057).

Stormwater Disposal –Public drainage improvements must be provided as part of the required right-of-way improvements. A public works permit (13-191335 WE) is under review, and has completed the 30 percent concept review phase. BES notes the 30 percent design is consistent with the land division site plan dated October 19, 2013.

Zoning: The site is located in a **Single Dwelling Residential 5,000 (R5)** zone and within the **Alternative Design Density (a)** overlay. 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 "a" overlay is intended to allow increased density that meets design compatibility requirements. This land division proposal is not using any of the provisions of the "a" overlay.

Land Use History: LUR 06-116951-PR – The subject site was part of a Property Line Adjustment with the abutting property that borders the east and south lot lines.

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 5, 2013**. No written responses have been received.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will 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, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

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 R5 zone. Based on the lot area of 10,984 square feet, the maximum density for the site is 2 units and the minimum density is also 2 units. However, in situations where the minimum required density is equal to the maximum allowed density, the minimum density is automatically reduced to one less than the maximum. So, in this case, the minimum density is 1 unit. The applicant is proposing 2 parcels for single-dwelling development, so the density standards are met.

The required and proposed lot dimensions 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)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	5,492		50	106	50
Parcel 2	5,492		50	106	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.

Based on these findings, the density and lot dimension standards are satisfied, and 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 provided an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.2) Six of the nine trees (Trees 2, 3, 4, 5, 7 and 8) have been exempted because they are too small, nuisance species, or in poor condition (topped) or dead. The other three trees (Trees 1, 6, and 9) are subject to the preservation requirements of this chapter. These trees provide a total non-exempt tree diameter on the site is 87 inches.

The applicant initially proposed to preserve two trees (Tree 1 and 6); however, the proposal now shows only Tree 6, a Coast redwood, will be retained. Tree 6 is a significant tree, with a 48-inch diameter, and alone comprises 55 percent of the total non-exempt tree diameter. Preserving this one tree will satisfy Option 1 of the tree preservation standards, which requires at least 35 percent of the total non-exempt tree diameter on the site to be preserved.

Since the tree preservation requirements are met by preserving Tree 6, the tree preservation standards do not require preservation of Tree 1 (a 16-inch diameter Western Red Cedar). The applicant may elect to retain Tree 1, since the arborist notes the tree is in excellent condition.

In any event, the applicant has provided a plan showing a 20-foot root protection zone for Tree 6 (Exhibit C.3) as recommended in the arborist report. In order to ensure that future owners are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Requirements at the time of final plat. The Acknowledgement will inform owners that development on Parcel 2 must be carried out in conformance with the Tree Preservation Plan and the applicant's arborist report.

With the implementation of this condition, this criterion will be met.

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

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat.

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable.

There is one tree that is required to be preserved on Parcel 2, and with the implementation of the measures outlined in the applicant's Tree Preservation Plan, as discussed in Criterion B, above, no grading or clearing will impact that tree.

Land Suitability: The site has most recently been in residential use, and there is no record of any other use in the past. Based on recent permits, the applicant has removed the house (per Demolition permit 13-145676 RS), and an old cesspool (per Sanitation Evaluation permit 13-125304-SE).

However, a garage and several detached structures were also located on the site, based on the existing conditions plan, and a site visit in November 2012. In order to ensure the parcels are suitable for development, conditions will be imposed for the removal of those structures, prior to final plat approval.

With the implementation of the noted tree preservation and documentation of the removal of the accessory structures, the parcel will be suitable for development, and this criterion will be met.

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

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

Based on the available evidence, Portland Transportation provided the following comments:

The applicant was granted a public works appeal to construct a separate sidewalk without a curb that follows the recent Street by Street program. A bond and contract ensuring the sidewalk will be constructed shall be a condition of final plat approval. With the provision of a sidewalk, pedestrian facilities will be adequate. The proposal will result in a net increase of one single-family residence. This residence can be expected to generate approximately 10 daily vehicle trips with 1 trip occurring in the AM and PM Peak Hour. This negligible increase will not significantly impact area intersections or street capacity. Transit service is available approximately 0.4 miles away at SE Duke and SE 57th. The site has access to SE Flavel, an arterial street, via SE 57th. The street pattern near this site meets connectivity standards. PBOT finds the transportation system is capable of serving the new residence in addition to the existing uses in the area

Based on these factors, the transportation system is capable of serving the new residence in addition to the existing uses in the area and no mitigation is required. As such, these criteria are met.

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

Findings: 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
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
The Bureau of Environmental Services (BES) has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. BES reviewed the applicant’s proposed stormwater management methods and provided the following comments: Proposed Parcels 1 and 2: <i>BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges.</i> <i>BES has reviewed the stormwater report from Welkin Engineering dated March 5, 2012. The report includes Presumptive Approach infiltration test results of 2.5 and 2.8 inches per hour. The applicant proposes on-site infiltration by means of drywells for the proposed structures.</i> <i>BES has no objection regarding the proposed use of new drywells for Parcels 1 and 2.</i> <i>The Oregon Department of Environmental Quality (DEQ) regulates underground injection</i>

control (UIC) facilities to protect groundwater. Drywells and soakage trenches are examples of UICs. It is the applicant's responsibility to register all on-site UICs with DEQ, as appropriate. To learn more visit [DEQ's website](#) or contact the DEQ UIC Program at 503-229-5945. The [SWMM](#) also includes general UIC information.

The applicant has not submitted any information regarding the location of stormwater management for the existing house but the structure has been demolished with a finalized permit.

Public Right-of-Way: BES reviews stormwater management facilities in the public right-of-way for compliance with SWMM requirements such as Infiltration and Discharge, Pollution Reduction, and Flow Control.

Portland Transportation requires public right-of-way improvements as part of the proposed development. Public drainage improvements per the granted Public Works Appeal will be required. Public improvements must meet the Stormwater Hierarchy and BES requirements for runoff from impervious area in the right-of-way. Per the 2008 SWMM, stormwater facilities in the right-of-way must be sized using the Presumptive Sizing Approach, which requires site-specific infiltration testing in or near the right-of-way in order to determine a design infiltration rate. For more information, see [Section 2.2.2](#) of the SWMM (Presumptive Approach) and [Appendix F.2](#) (infiltration testing procedures). If infiltration is not feasible, an acceptable discharge point must be identified.

The applicant has completed the concept review (30% design) phase of the public works permitting process and will construct public drainage improvements as part of the required street improvements.

The 30 percent design of the Public Works plans are consistent with the provided site plans dated October 19, 2013.

BES has noted an approvable engineered design for the public drainage improvements (as determined by BES engineering staff), financial guarantee (bond), and engineering fees will need to be received by BES prior to final plat approval.

With a condition to this effect, this criterion will be met.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. As noted in Criterion K, above, Portland Transportation has noted the street pattern meets the connectivity standards. Additionally, as noted above, a sidewalk is required to be constructed along the site frontage, which will improve the pedestrian environment. With the implementation of that condition, this criterion will be met.

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

SE Ogden Street is improved with a paved roadway, and a gravel shoulder on both sides. 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 sidewalk improvements must be made, in order to ensure that safe pedestrian travel is possible along the frontage of the project site. To accommodate these improvements, as well as an associated stormwater facility discussed earlier in this report, a sidewalk and stormwater facility will be required along the site frontage.

As noted above, the applicant requested an appeal to the standard street improvements, and submitted a Street by Street alternative design for the required frontage improvements. Based on a discussion with the Public Work staff, on November 8, 2013, a 2-foot right-of-way dedication will be required along the SE Ogden frontage, in order to accommodate the Street by Street swale and sidewalk design that the applicant submitted for the Public Works permit. This 2-foot dedication is shown the applicant's Preliminary Swale and Sidewalk Plan (Exhibit C.1). During the Public Works review of the final design for the right-of-way improvements, it may be determined there is already sufficient right-of-way width to accommodate the required improvements, and the noted right-of-way dedication may not be required.

In either event, with the required improvements to the right-of-way, Portland Transportation has indicated the two proposed dwellings can be safely served by this existing street without having any significant impact on the level of service provided. With the noted conditions, this criterion will be met.

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

At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. 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. As such, this criterion will be 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 and development under construction: The applicant is proposing to remove or has removed all of the existing structures on the site, so the division of the property will not cause those structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. However, the applicant has also obtained permits for a new house [13-136201 RS] and garage 13-136204 RS] on the site, and the construction of these structures is underway.

To ensure the new development will continue to conform to the R5 development standards with the division of the property, the applicant must provide a supplemental plan showing the location of all constructed and proposed development on Parcel 1. Alternatively, the applicant must demonstrate the new development is in conformance with an approved Adjustment or other Land Use Review decision that specifically approves an alternative to the development standard(s).

Additionally, the applicant applied the tree diameter of an existing tree on Parcel 2 to fulfill the T1-tree standard (Zoning Code Section 33.248.020.H) for the new house on Parcel 1. So, to ensure the required tree caliper is installed on Parcel 1, the applicant must obtain and final a Zoning Permit or revise the permit for the new house (13-136201 RS) to demonstrate that the T1 tree standard is met on Parcel 1.

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
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access

Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- **Fire Bureau:** The applicant must meet the requirements of the Fire Bureau in regards to fire flow/water supply; addressing; and aerial fire department access roads.
- **Urban Forestry:** Street tree requirements will be determined at the time of building permit review.

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:

- Tree Preservation;
- Right-of-way dedication and improvements;
- Fire Bureau requirements; and
- Compliance with R5 standards for new development under construction on Parcel 1.

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 standard lots for detached housing, 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 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:

- Proposed permitted development not yet constructed on Parcel 1;
- Trees on Parcel 1;
- 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;
- 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 Ogden Street. The required right-of-way dedication must be shown on the final plat. At the time of the final review for the frontage improvements, per Condition C.1, below, it may be determined that a dedication is not required.
2. A recording block for each of the legal documents, such as the acknowledgement of special land use conditions, as required by Condition C.4 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “*An Acknowledgement of Tree Preservation Requirements* has been recorded as document no. _____, Multnomah County Deed Records.”

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

Streets

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 approvable engineered design for the public drainage improvements (as determined by BES engineering staff), financial guarantee (bond), and engineering fees to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for the required street frontage improvements.

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.

Existing Development

3. The applicant must remove the garage and 3 detached accessory structures on Parcel 1. To document the removal of these structures, the applicant must submit before and after photos of the removal (with the same perspective). Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.

Required Legal Documents

4. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcel 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.


Other requirements

5. The applicant must demonstrate that Parcel 1 is in conformance with the required T1 standards (Zoning Code Section 33.248.020.H) by completing one of the following: (1) revise the permit for the new house on Parcel 1 (13-136201 RS); or (2) obtain and final a Zoning Permit to provide the required tree(s).

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan. Specifically, Tree 6, a 48-inch diameter Coast redwood located in the northeast corner, is required to be preserved, with the root protection zones indicated on Exhibit C.3. 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 applicant must meet the addressing requirements of the Fire Bureau.
3. 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.

Staff Planner: Kate Green

Decision rendered by:  **on November 8, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed November 14, 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 October 31, 2012, and was determined to be complete on April 3, 2013.

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 October 31, 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 in Exhibit G.3. **The 120 days will expire on April 2, 2014.**

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.

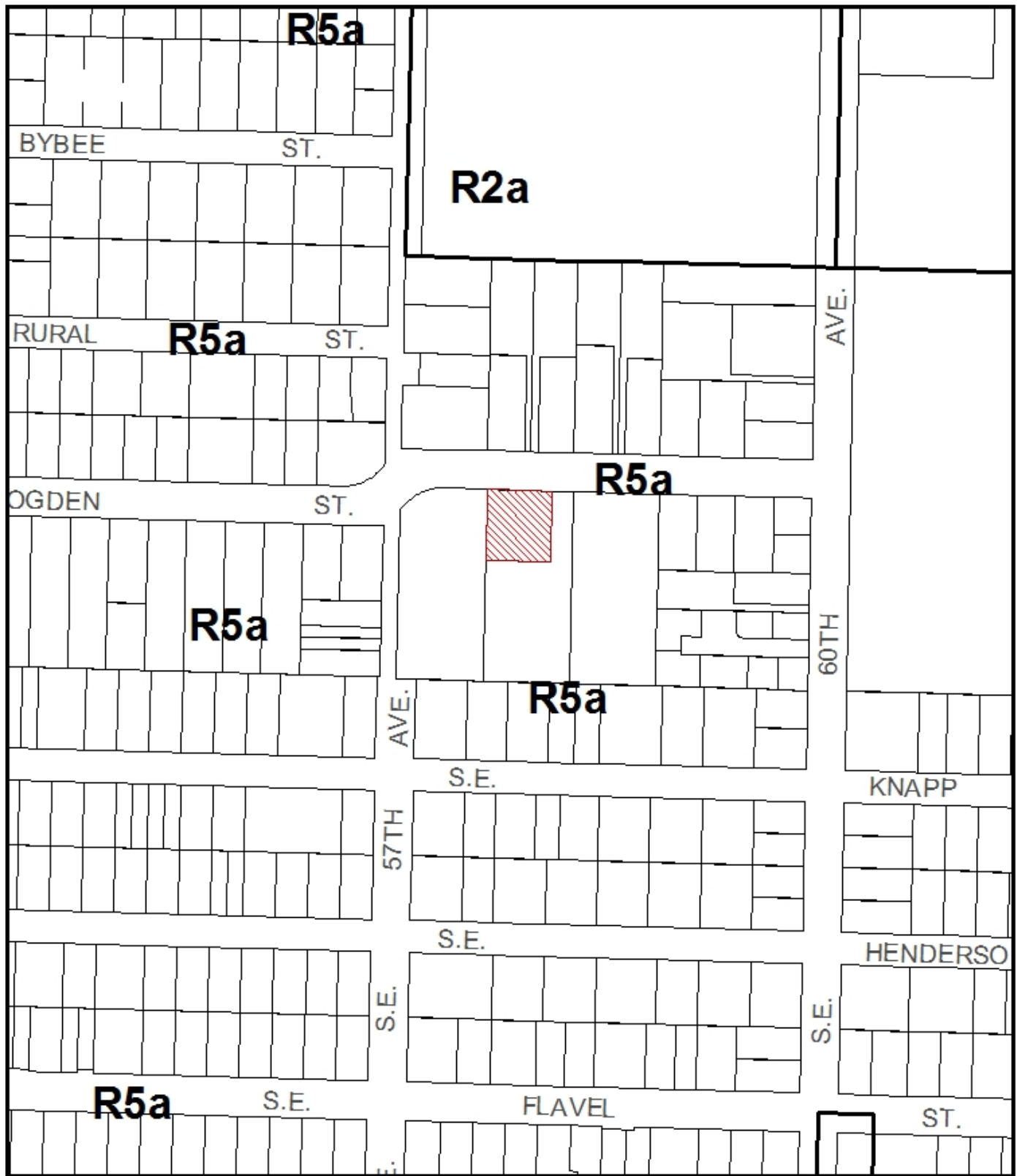
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Revised Narrative
 - 2. Arborist Report
 - 3. Supplemental Narrative
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing Conditions Plan
 - 3. Tree Preservation Plan
 - 4. Full Plan Set
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development/BDS
 - 6. Urban Forestry
 - 7. Life Safety/BDS
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Letter to applicant re: incomplete application
 - 3. Timeline extension
 - 4. Correspondence to/from applicant

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



ZONING

 Site



NORTH

File No. LU 12-200604 LDP
 1/4 Section 3736
 Scale 1 inch = 200 feet
 State_Id 1S2E19AD 9700
 Exhibit B (Oct 31, 2012)

