



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** September 8, 2014  
**To:** Interested Person  
**From:** Brandon Rogers, 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. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-150928 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Kevin Partain / Urban Visions  
223 NE 56th Ave / Portland OR 97213

**Owner:** Milan Skoro  
14714 SE Crosscreek Ct / Damascus, OR 97089

**Site Address:** 5009 SE 100TH AVE  
**Legal Description:** BLOCK 1 LOT 8 EXC W 125', FAXON PK  
**Tax Account No.:** R273000810  
**State ID No.:** 1S2E16AD 01200  
**Quarter Section:** 3540  
**Neighborhood:** Lents, contact Cora Potter at 503-823-4550.  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** Johnson Creek Basin  
**Zoning:** Residential 5,000 (R5) with the "a" Alternative Design Density Overlay Zone.

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

#### **Proposal:**

The applicant proposes to divide a 16,500 square foot lot into two parcels; a 8,180 square foot parcel (Parcel 1) containing the existing house and a 7,209 square foot flag lot (Parcel 2) for development of a single dwelling. An existing magnolia tree will be preserved in the front yard of Parcel 1. Drywells are proposed for stormwater management.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no

other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

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

## ANALYSIS

**Site and Vicinity:** The site is developed with a single family residence. The topography of the site is primarily level, with an average slope of 1% declining in slope from the northwest to the southeast. The site is located in a neighborhood with primarily single dwelling development and is located near Lents Elementary School and across the street from Bloomington Park.

### Infrastructure:

- **Streets** – At this location, the City’s Transportation System Plan (TSP) classifies SE 100th Ave as a Local Service street for all modes. According to City GIS, SE 100th is improved with approximately 42-ft of paving and 0-5-4 sidewalk corridor within a 50-ft ROW. For a Local Service street abutting R5 zoned sites, the Pedestrian Design Guide recommends an 11-ft wide sidewalk corridor (0.5-ft curb/4-ft furnishing zone/6-ft curb/0.5-ft frontage zone). Tri-Met provides transit service via Tri-Met Route #17 with a stop at SE Holgate & SE 100th, approximately 1,000-ft from the site, and Route #10 with a stop at SE Harold & SE 101st, approximately 2,000-ft from the site.
- **Water Service** – There is an existing #8-inch water main located in SE 100th Avenue. The existing house is served by a 1-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch public sanitary sewer line located in SE 100th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. On-site drywells are proposed for stormwater disposal.

**Zoning:** The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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 does not propose to use any of the provisions of the “a” overlay.

The site is located within the Johnson Creek Basin Plan District (JCBPD). The JCBPD is intended to provide for the safe, orderly and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services within the district. The site is not located within a floodplain or flood risk area, does not abut the Springwater Corridor and is not located within the South Subdistrict, therefore the regulations of the JCBPD are not applicable. The erosion control standard of 33.537.100.E is applicable and will be implemented at the time of development by standard erosion control measures.

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

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

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **July 25, 2014**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
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.
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**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Minimum density in the R5 zone is 80 percent of the maximum density of one unit per 5,000 square feet. The site has a maximum density of 3 units and a minimum density of 3 units. Because the minimum required density is equal to the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 2. The applicant is proposing 2 single family parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width** (feet)	Min. Flag Lot Depth (feet)
<b>R5 Zone</b>	3,000	8,500	36	50	30	40	40
Parcel 1	8,180		87.89	95.00	87.89	N/A	N/A
Parcel 2	7,209		N/A	N/A	N/A	100.13	72.00

\* 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.

\*\* For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

**When allowed**

In this case the applicant is proposing 2 parcels, only one of which is a flag lot. The existing dwelling unit has been on the property for at least 5-years and is positioned on the site so that a land division meeting the minimum lot width standards is precluded. The minimum density standards are met. Therefore the thresholds for when a flag lot is allowed to be created have been met.

**Dimensions**

The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width and depth standards.

**Vehicle Access**

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

In this case, a shared access is not feasible. The existing driveway is located on Parcel 1 serving the existing dwelling. It is not feasible for this driveway to be shared with the proposed flag lot because the dwelling is setback only 9.66 feet from the north property line, where a 12-foot wide pole is required for the flag lot. No other alternatives beyond the proposed location were suitable for the additional vehicle access.

Parcel 2 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 2 is allowed.

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.3). The report has identified 8 trees at the site. Four of these trees (No. 256, 259, 261, 262) have been determined to have a low preservation value due to being topped and showing signs of decay. Three of these trees (257, 258, 260) have been exempted because they are unhealthy and/or a nuisance species.

The remaining tree is proposed for preservation. The applicant proposes to preserve tree #255, a 28 inch (measured diameter at breast height) Magnolia tree. The total non-exempt tree diameter at the site is 84 inches. Tree #255 comprises 28 inches of diameter, or 33 percent of the total non-exempt tree diameter. This proposal falls short of 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. Therefore, the applicant will be required to pay into the City Tree Fund for the remaining two inches of trees. The tree to be preserved and the required root protection zone are shown on the applicant's Tree Preservation Plan/Preliminary Land Division Plan (Exhibit C.1).

The arborist report proposes an Alternative Tree Preservation Plan. The standard root protection zone is one foot for every one inch of tree diameter at breast height. This standard requires a 28-foot Root Protection Zone (RPZ) for the tree to be preserved. The arborist report recommends an alternative RPZ of 5-feet to the south and east (to the sidewalk), 20 feet to the north and west. Additionally, the report recommends materials and techniques for the construction of the driveway and installation of utilities for Parcel 2 which are designed to minimize root disturbance and to provide for soil permeability. The arborist report states that the alternative plan provides the same level of protection as the standard requirement.

In order to ensure that future owners of the lots are aware of the tree preservation requirements, a condition of approval requires that 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 Tree Preservation Plan Exhibit C.1) and the applicant's arborist report (Exhibit A.3) and an Acknowledgement of Tree Preservation Requirements is recorded with the final plat.

Therefore, with the conditions noted above, the criteria can be met.

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

**Findings:**

***Clearing and Grading***

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is generally anticipated.

This criterion is met.

### **Land Suitability**

Although the site is currently connected to the public sanitary sewer, there is an old cesspool on the site. The City has no record that this facility was 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 this facility. With a condition requiring final inspection for a decommissioning permit, 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,**

**Findings:** The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services.

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: (1) street capacity and level-of-service; (2) vehicle access and loading; (3) on-street parking impacts; (4) the availability of transit service and facilities and connections to transit; (5) impacts on the immediate and adjacent neighborhoods; and (6) safety for all modes. The applicant submitted a written narrative to address these evaluation factors.

### **Street capacity and level-of-service**

The industry standard used for estimating trip generation for new developments or redevelopments is the Institute of Transportation Engineers (ITE) Trip Generation Manual. ITE facilitates the application of technology and scientific principles to research, planning, functional design, operations and services for all modes of ground transportation. The most current Trip Generation Manual, 9th edition, was used in this analysis.

The proposed land division will create one (1) new parcel from the current lot in order to accommodate one additional single-family detached home. Referring to the ITE Trip Generation Manual, 9th Edition, the net new trips as the result of the proposed land division will be one (1) new AM peak hour trip and one (1) additional PM peak hour trip (10 additional total new daily trips).

PBOT finds that site generated vehicle trips as a result of one additional dwelling unit will have negligible impacts to the capacity of nearby intersections.

### **Vehicle access and loading**

The existing driveway/curb-cut at the north end of the site's frontage will continue to provide vehicle access to the attached garage on Parcel 1. A new driveway/curb-cut is proposed along the south end of the site's frontage for Parcel 2 in the area of an existing on-site paved driveway/parking space. SE 100th is a Local Service street that provides unrestricted access to Neighborhood Collectors in the area including SE Holgate to the north and SE Harold to the south. Staff identified no issues associated with vehicle access.

Loading is expected to take place using the private driveways for individual homes. Loading activities associated with residential land uses are typically light and infrequent, and there is ample space for these activities to occur. Accordingly, vehicle access and loading space at this location are able to sufficiently accommodate the existing uses as well as the proposed land division.

### **On-street parking impacts**

Parcel 1 has an existing garage and there is sufficient space in front of the garage to park up to 2 additional vehicles. Parcel 2 will be developed with at least one on-site parking space.

The vicinity surrounding the subject property is predominately developed with single-family homes that accommodate on-site parking via garages and driveways thereby reducing the demand for on-street parking in the area. The additional dwelling unit that will result from this land division will not significantly impact on-street parking in the vicinity.

**Availability of transit service and facilities and connections to transit**

The site and area is served by transit via Tri-Met Route #17 with a stop at SE Holgate & SE 100th, approximately 1,000-ft from the site, and Route #10 with a stop at SE Harold & SE 101st, approximately 2,000-ft from the site. Existing sidewalks provide direct access from the site to transit service.

**Impacts on the immediate/adjacent neighborhoods**

Traffic volumes on area roadways and intersections are not expected to change significantly upon approval of the proposed land division which will result in one additional dwelling unit. The additional site trips during the peak hours will have no noticeable impacts to immediate and adjacent neighborhoods. No significant operational or safety problems were identified and vehicle parking will be accommodated on-site minimizing the impacts that the additional dwelling unit could have upon on-street parking in the area.

**Safety for all modes**

There are continuous sidewalks along the west side of SE 100th that provide safe pedestrian access to transit service and the surrounding neighborhood. There are also identified bike facilities in the area (Portland Bike/Walk Map). Specifically, SE 100th is a designated Neighborhood Greenway and both SE Holgate to the north and SE Harold to the south are improved with bike lanes. Additionally, traffic calming measures (speed bumps) have been installed along this segment of SE 100th.

The proposed land division will not impact the safety of the transportation systems in the area. PBOT has reviewed and concurs with the information supplied, the methodology, assumptions and conclusions made by the applicant's traffic consultant. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area.

Based on the available evidence, PBOT estimates that the one new residence will generate approximately 10 new daily vehicle trips, with the majority of trips occurring during non-peak hours (according to *Institute of Transportation Engineers – Trip Generation Manual*, 9<sup>th</sup> ed.). PBOT staff has determined that there will have negligible impacts to the capacity of nearby intersections and no mitigation is required (see Exhibit E.2 for a detailed analysis).

These criteria are met.

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

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

**33.651 Water Service standard** – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.

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

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

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

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

The applicant has proposed the following stormwater management methods:

- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot 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. Site Development has indicated conceptual approval of the drywell.
- **Parcel 1 (the lot with the existing house):** The response from Bureau of Environmental Services (Exhibit E.1) indicates that stormwater is discharged to existing drywells on the property. The applicant has located the drywells through scoping and shown them on the revised site plan. The drywells appear to meet setback requirements in the 2014 SWMM. Therefore, this criterion is 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. The block on which the subject property is located does not meet the noted spacing requirements. Therefore, an east-west/north-south through street should be provided in the vicinity of the site. Although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection in the vicinity of the project site, there is no practicable opportunity to provide them with this land division.

The location of the existing house precludes the creation of a public east-west through street. Additionally, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site.

The Portland Bureau of Transportation has determined that it is not practical to require a pedestrian connection at the site. Street and pedestrian connections are required where appropriate and practical, taking a number of factors into consideration. The City's spacing goals for public pedestrian connections is 330-ft.

Many of the existing blocks in this area do not meet the specified connectivity goals as they are approximately 1,200-ft long. However, given the existing lot sizes/widths and development pattern in this area, it would be impractical to apply the pedestrian connectivity spacing goals in association with this 2-lot land division. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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



In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

At this location, the City's Transportation System Plan (TSP) classifies SE 100th Ave as a Local Service street for all modes. According to City GIS, SE 100th is improved with approximately 42-ft of paving and 0-5-4 sidewalk corridor within a 50-ft ROW. For a Local Service street abutting R5 zoned sites, the Pedestrian Design Guide recommends an 11-ft wide sidewalk corridor (0.5-ft curb/4-ft furnishing zone/6-ft curb/0.5-ft frontage zone).

While the existing sidewalk does not meet the corridor recommendations of the Pedestrian Design Guide, the applicant received approval of a Public Works Alternative Review (14-167664-PW) allowing the existing sidewalk configuration to remain in place provided that the required 2-ft dedication is completed and that street trees are planted behind the sidewalk per the City Forester's recommendation.

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.

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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 2.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 2. 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 R5 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 is one Zoning Code standard relating to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new 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. The covered patio located on the west portion of the existing house will be 2 feet from the new property line. Therefore, the required setbacks are not being met. To ensure this standard is met at the final plat stage, a condition of

approval requires the applicant to request a permit to remove or alter the detached patio to meet the required setbacks prior to approval of the final plat.

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 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20.

## CONCLUSIONS

The applicant has proposed a 2 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, building setbacks. With conditions of approval that address tree preservation and removal of the covered patio, this proposal can be approved.

## **ADMINISTRATIVE DECISION**

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

**A. The final plat must show the following:**

1. 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 B.3 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."
2. The applicant shall meet the street dedication requirements of the City Engineer for SE 100<sup>th</sup> Avenue. The required right-of-way dedication must be shown on the final plat.

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

**Utilities**

1. 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 on the site.
2. The applicant shall provide information to the satisfaction of the Fire Bureau that Fire Hydrant spacing is adequate. If necessary, the applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant. The applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.
3. 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.
4. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way including turning radius for Parcels 1 and 2 as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2 if applying the exception for access. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

**Existing Development**

5. The applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Parcel 1 demonstrating 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 attached patio cover to meet the rear setback requirement of 5 feet in the R5 zone.
6. The applicant must plant 1 street tree(s) on Parcel 1 adjacent to the right of way. Street trees will be chosen from the City's approved street tree list. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted

and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

### **Required Legal Documents**

7. 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.


### **Other requirements**

8. The applicant must pay into the City Tree Fund the amount equivalent to 2 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.3). Specifically, the tree numbered 255 is required to be preserved, with the root protection zones indicated on Exhibit C.1 and the driveway construction shall comply with the arborist report. 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 for Parcels 1 and 2. The location of the sign must be shown on the building permit.
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: Brandon Rogers**

**Decision rendered by:**  **on (09/04/2014)**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: September 8, 2014**

**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 April 30, 2014, and was determined to be complete on **July 22, 2014**.

*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 April 30, 2014.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: November 19, 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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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

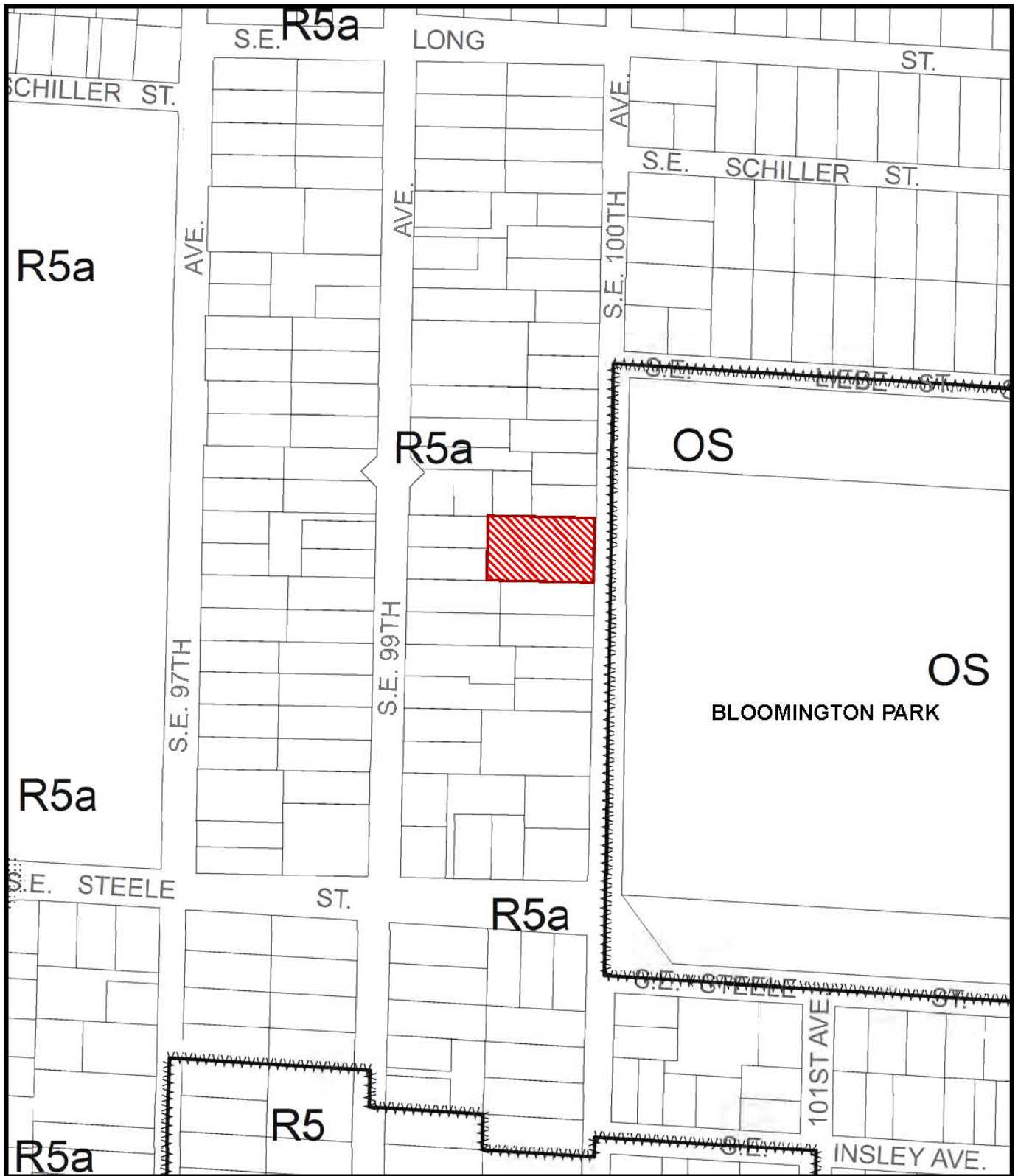
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Submittal
  - 2. Revised Submittal
  - 3. Arborist Report
  - 4. Stormwater Simplified Approach Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Plan/Utility/Tree Preservation Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence (none received)
- G. Other:
  - 1. Original Land Use Application
  - 2. Incomplete Letter

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



# ZONING



Site



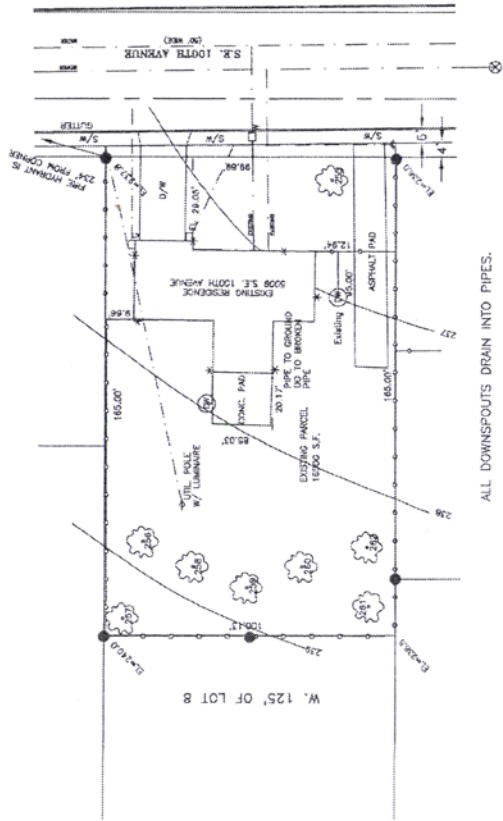
NORTH

This site lies within the:  
**JOHNSON CREEK BASIN PLAN DISTRICT**

File No. LU 14-150928 LDP  
 1/4 Section 3540  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E16AD 1200  
 Exhibit B (May 05, 2014)

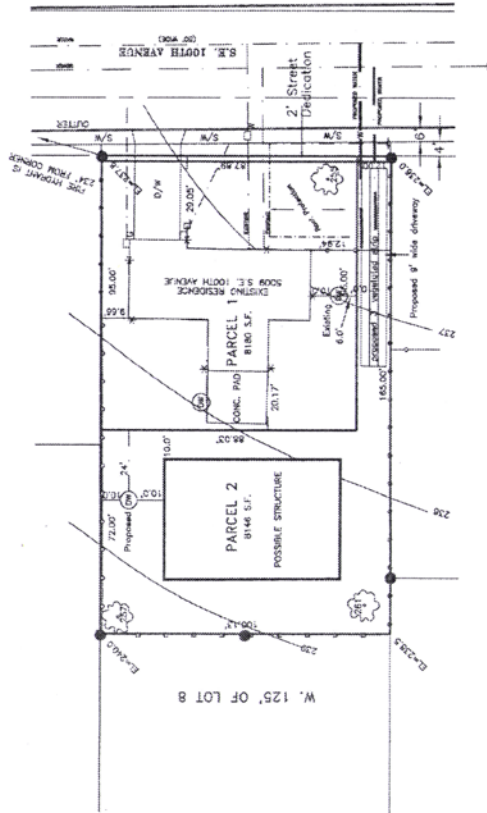


**EXISTING CONDITIONS**



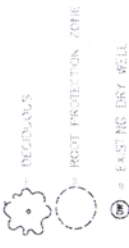
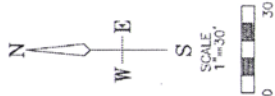
ALL DOWNSPOUTS DRAIN INTO PIPES.

**PROPOSED CONDITIONS**



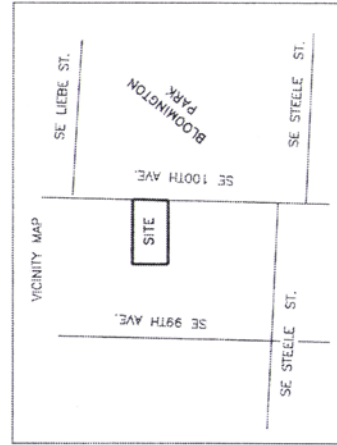
**CASE NO. 14-150928**  
**EXHIBIT C.1**

- SYMBOLS**
- ⊕ = POWER POLE
  - ⊖ = GUY ANCHOR
  - ⊕ = WATER METER
  - ⊕ = GAS METER
  - ⊕ = ELECTRIC METER
  - ⊕ = WATER VALVE
  - ⊕ = GAS VALVE
  - ⊕ = MANHOLE
  - ⊕ = CLEAN OUT
  - ⊕ = DRY WELL
  - ⊕ = CATCH BASIN
  - ⊕ = FIRE HYDRANT
  - ⊕ = DOWN SPOUTS
  - W — = WATER LINE
  - G — = GAS LINE
  - E — = ELECTRIC LINE
  - S — = SAN. SEWER



ZONE IS R50  
FOR TREE INFORMATION SEE TREE REPORT BY MARY GERSCH CONSULTING ARBORIST.  
UTILITIES TO BE LOCATED AT THE TIME OF BUILDING PERMITS.

REGISTERED PROFESSIONAL LAND SURVEYOR  
OREGON  
JULY 25, 1990  
JOE H. FERGUSON  
RENEWAL DATE 12/31/15



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

**SITE MAP**

LOT B, "BAXON PARK", EXCEPT THE WEST 125 FEET IN THE NE 1/4, SECTION 16, T.1S., R.1E., W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON

CLIENT:  
MILAN SKORO  
2141 SE POWELL BLVD.  
PORTLAND, OR 97266

DATE: APRIL 24, 2014

REVISED: JULY 14, 2014  
REVISED

JOB NO. 13-138  
DRAFTED 04.24.14

SHEET 1 OF 1