



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

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**REVISED STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER**

CASE FILE: LU 15-221513 LDS  
PC # 15-148360  
REVIEW BY: Hearings Officer

For the hearing that occurred October 12, 2016 at 9am

**BUREAU OF DEVELOPMENT SERVICES STAFF: SHAWN BURGETT / SHAWN.BURGETT@PORTLANDOREGON.GOV**

**GENERAL INFORMATION**

**Applicant:** Mark Dane  
Mark Dane Planning  
12725 SW Glenhaven St  
Portland, OR 97225

**Owner:** Eric Rystadt  
Main Street Development Inc  
Pmb 208, 5331 SW Macadam Ave Suite 258  
Portland, OR 97239

**Site Address:** 1530 SW 58TH AVE

**Legal Description:** TL 2400 0.50 ACRES, SECTION 06 1S 1E  
**Tax Account No.:** R991061900  
**State ID No.:** 1S1E06CA 02400  
**Quarter Section:** 3223  
**Neighborhood:** Sylvan-Highlands, contact Dave Malcolm at 503-805-9587.  
**Business District:** None  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Plan District:** Northwest Hills - Skyline

**Zoning:** R2 (Multi-Family Residential 2,000)

**Case Type:** LDS (Land Division Subdivision)  
**Procedure:** Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

**Proposal:**

The Public Hearing for this proposal was held on October 12, 2016. The staff report dated September 30, 2016 recommended denial because the applicant had not meet several of the relevant factors in the approval criteria. At the Hearing, planning staff indicated that they may be able to revise the recommendation from denial to approval if the applicant could submit evidence

into the record documenting that they could meet the outstanding criteria. At the public hearing, the record was left open until 4pm on November 2, 2016 for any new evidence to be submitted. The applicant has submitted additional evidence into the record (see H Exhibits) which will be discussed in this revised staff report.

The applicant is proposing a 7-lot land division on this 21,780 square foot site. Proposed Lots 1-3 will measure between 1,746 square feet and 1,896 square feet and will accommodate detached dwelling units facing the new private street tract. Proposed Parcels 4-7 will measure between 1,638 and 2,349 square feet and will accommodate attached dwelling units that will also face the new private street. A Shared Court will serve as the private street tract. A Shared Court is a courtyard like right-of-way that provides shared vehicle, pedestrian and bicycle access. The applicant has demolished the existing house on the site. The applicant is proposing to protect several trees located within the shared court near the southern property boundary. In addition, the applicant is proposing a 2,030 square foot Stream Preservation tract (labeled as Tract B) along the eastern property boundary of the site.

This subdivision proposal is reviewed through a Type III procedure because: (1) the site is in a residential zone; (2) four or more lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 9 units of land (7 lots and 2 tracts). Therefore this land division is considered a subdivision.

**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 and Section 33.563.410, Skyline Subdistrict, Land Divisions and Planned Developments.**

## FACTS

**Site and Vicinity:** The site is located on the east side of SW 58<sup>th</sup> Ave approximately 200 feet northwest of SW Skyline Blvd. and approximately 800 feet north of SW Canyon Ct. which runs parallel to Highway 26 to the south. The site is vacant; the single family home previously on the site has been demolished. Topography is relatively flat along the western portion of the site, while the eastern portion of the site slopes downward towards the eastern property boundary where an existing stream has been identified. Development within the vicinity of the site is primarily composed of single family residential dwelling units reflecting the R20 zoning designation (R20-Single Family Residential, one unit per 20,000 square feet). The sites southern property boundary abuts existing Multi-dwelling development with comparable (R2) zoning. East Sylvan School is located on the property directly west of the site (across SW 58<sup>th</sup> Ave).

### Infrastructure:

- **Streets** – The site has approximately 100 feet of frontage on SW 58th Ave. At this location, SW 58<sup>th</sup> Ave is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 800 feet south of the site on SW Canyon Ct. via Bus #58.

At this location, SW 58th Ave is improved with approximately 20-24 feet of paved roadway surface in a width right-of-way (40 feet) with no curbs or sidewalk.

- **Water Service** – There is an existing 6-inch water main in SW 58th Ave.

- **Sanitary Service** - There is an existing 8-inch concrete public sewer main that runs along the eastern boundary and is located in a 10-foot-wide public sewer easement. The house previously located on this site was served by this lateral.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. However, it should be noted, the applicant is required to install a new public storm sewer in SW 58<sup>th</sup> Ave which is discussed later in the report.

**Zoning:** The R2 designation is one of the City’s multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The Northwest Hills plan district protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the Forest Park subdistrict contain unique, high quality resources and functional values that require additional protection beyond that of the Environmental overlay zone. The plan district also promotes the orderly development of the Skyline subdistrict while assuring that adequate services are available to support development.

**Land Use History:** City records indicate that LU\_04\_048798 ZC approved a Zoning Map Amendment from Single-Dwelling Residential 20,000 (R20) to Low Density Multi-Dwelling Residential (R2), in conformance with the existing Comprehensive Plan Map designation

**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 **September 20, 2016**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

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

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
I	33.639 - Solar Access	New parcel configuration is limited based on the location of mature trees on the site eligible to be protected under the tree preservation criteria (33.630.200 supersedes 33.639).

L	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	Turnarounds are not required for a shared court
	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
	33.654.130.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 to be extended.
	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 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 7 lots for detached (Lots 1-3) and attached (lots 4-7) houses that will be served by a shared court private street. Single-dwelling development is proposed for the entire site; therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3. Site area devoted to streets is subtracted from the total site area in order to calculate minimum and maximum density. However, the area used for common greens and shared courts is not subtracted from the total site area to calculate maximum density. Additionally, the minimum density for lots accessed by a shared court in the R2 zone is 1 unit per 3,000 square feet, per 33.120.270.E.2.

The total site area shown on the applicant’s survey is 21,780 square feet. A street dedication is required that totals approximately 1,096.48 square feet and the new shared court private street totals 4,301 square feet. Therefore the resulting lot size for calculating minimum density is 16,382.52 square feet and the resulting lots for calculating maximum density is 20,683.52 square feet. The site has a minimum required density of 5 units and a maximum allowed density of 10 units.

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

<b>R2</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Detached Houses</b>	<b>1,600</b>	<b>25</b>	<b>none</b>	<b>25</b>
Lot 1	1,896	31.56	61.51	31.56
Lot 2	1,755	29	61.51	29
Lot 3	1,746	29	61.51	29

<b>Attached Houses</b>	<b>1,600</b>	<b>15</b>	<b>none</b>	<b>15</b>
Lot 4	1,640	26	65.08	26
Lot 5	1,654	22	73.70	22
Lot 6	1,638	21.5	76.16	21.5
Lot 7	2,349	30.17	77.83	30.17

\* Width is measured from the midpoints of opposite lot lines.

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

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided an existing conditions survey (Exhibits A.9 and A.38) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.20) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

The arborist report identified 48 trees within the land division site, of which 33 were determined to be exempt. Four of the trees identified as being exempt (#1, 2, 15 and 20) are on the Nuisance Plants List and therefore exempt, per 33.630.030.A. Several Vine Maples (#14, 27) were also listed as exempt due to the trees being in “poor” condition. However, it should be noted, Vince Maples are considered “shrubs” per the Portland Plant List and not subject to these standards. In addition, the arborist report noted that tree #13 (Portuguese Laurel) was “exempt” because it was a nuisance species. However, this tree is not listed on the nuisance plant list and therefore is not considered exempt. The arborist listed 27 trees as exempt since they were considered “dead, dying or dangerous” per his report (Exhibit A.20).

The 16 trees identified by the applicant’s arborist as being non-exempt comprise a total of 350-inches of tree diameter. Of these trees, 8 are 20 inches DBH or greater.

The applicant has proposed (Exhibit A.25, 7/15/16 arborist report) to protect 50% of the 20” diameter non-exempt trees on the site which include the following trees: Tree #16(20” diameter

Norway Spruce), tree #17 (35" Diameter Deodar Cedar), tree #19 (25" Douglas Fir) and Tree #24 (22" Diameter Douglas Fir).

In addition, trees numbered 36 (11" Shore Pine) and 37 (10" Shore Pine) within Tract B should also be protected, which will equal 35% of the overall non-exempt tree diameter being protected on the site. This plan meets Zoning Code section 33.630.100.A.3, option 3, which at least 50 percent of the trees that are 20 or more inches in diameter are protected, and at least 30 percent of the total tree diameter on the site.

It should be noted, following the Hearing, in order to satisfy this criteria the applicant modified the shared court roadway design to protect tree 24 by shortening the length of the shared court roadway by approximately 10 feet and attaching the proposed Dwelling Unit on Lot 5 to the Dwelling Unit on Lot 6.

In order to ensure that future owners of Lots 1-3 and 7 and tracts A and B are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Lots 1-3 and Lot 7 and within Tracts A and B must be carried out in conformance with the the Arborist Report (Exhibit A.25). In addition, the supplemental survey required to be submitted as a condition of approval, must show the location of these trees and the Root Protection zones. A copy of this supplemental survey will be required to be attached to the Acknowledgement of Tree Preservation Land Use Conditions.

Based on the preceding findings and conditions of approval, the Minimum Tree Preservation Standards (33.630.100) and Approval Criteria (33.630.200.D) are met.

### **33.630.400 Modifications That Will Better Meet Tree Preservation Requirements**

- A. Site-related development standards.** The review body may consider modifications to site-related development standards as part of the land division review. These modifications are done as part of the land division process and do not require an adjustment. Adjustments to use-related development standards are subject to the adjustment process of Chapter 33.805, Adjustments. Modification to a regulation that contains the word "prohibited," or a regulation that is a qualifying situation or threshold is prohibited. In order to approve the modification, the review body must find that the modification will result in improved tree preservation, considering the tree preservation priorities for the site, and will, on balance, be consistent with the purpose of the regulation being modified.

**Findings:** Zoning Code section 33.654.120.G.1.b states that a shared court may be up to 150 feet in length. The design of the Shared Court (and length) was configured in order to protect 50% of the 20" diameter trees on the site as indicated in the findings above. The proposed Shared court is approximately 280 feet in length since the outdoor area proposed within the shared court (which is located directly south of lots 1-3) is considered part of the shared court and is approximately 100 feet in length. However, the shared court roadway (area where motorized vehicles will be allowed) is approximately 180 feet in length. The length of the Shared Court exceeds the maximum standard length.

As indicated under Zoning Code section 33.654,120.G:

The purpose of the shared court standards is to allow streets that accommodate pedestrians and vehicles within the same circulation area, while ensuring that all can use the area safely. Special paving and other street elements should be designed to encourage slow vehicle speeds and to signify the shared court's intended use by pedestrians as well as vehicles. Access from a shared court is limited to ensure low traffic volumes that can allow a safe mixing of pedestrians and

vehicles. Shared courts are limited to zones intended for more intense development to facilitate efficient use of land while preserving the landscape-intensive character of lower-density zones.

The proposed Shared Court design results in a Tree Preservation Plan that exceeds the minimum Tree Preservation standards and is on balance consistent with the purpose of the regulation stated above. Special paving and planters are proposed within the portion of the shared court utilized by motorized vehicles, which will allow a safe mixing of pedestrians and vehicles. In addition, by lengthening the shared court to include the area located directly south of lots 1-3 and Lot 7 where the four trees are proposed for protection, this will allow the applicant to provide an outdoor area within the shared court that meets the minimum standards. Based on the findings above, the length of the shared court can be increased beyond the minimum standards of 33.654.120.G.1.b in order to better meet tree preservation requirements.

This criterion is met.

**D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.**

**Findings:** The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

To address this criterion, the applicant has submitted a Geotechnical report (Exhibit A.3), Landslide Hazard Study (Exhibit A.11), and a Supplemental Geotechnical Report (A.37) that evaluates the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.11).

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated the submitted reports and finds the following:

This site is located within the City's Potential Landslide Hazard Areas Map. Therefore, a Landslide Hazard Study (LHS) is required per PCC [33.632](#). The following reports have been submitted for review:

- June 23, 2016 Hardman Geotechnical Services Inc., *Supplemental Geotechnical Consultation – Concrete Abutment Walls, 1530 SW 58<sup>th</sup> Ave, Portland, Oregon* (Exhibit A.37)
- October 16, 2015 Hardman Geotechnical Services Inc., *Landslide Hazard Study, 1530 SW 58<sup>th</sup> Avenue, Portland Oregon*, (Exhibit A.11)
- July 3, 2015 John E. Jenkins GeoConsulting PC, *Landslide Hazard Assessment – Residential Development, 1530 SW 58<sup>th</sup> Avenue, Portland, OR*, (Exhibit A.3) and,
- June 11, 2015 Hardman Geotechnical Services Inc., *Geotechnical Engineering Report, 1530 SW 58<sup>th</sup> Avenue, Portland Oregon*, submitted separately, includes the boring logs referenced in the LHS. (Exhibit A.3)

The reports conclude that the site is not located within any of the landslides as mapped by the Oregon Department of Geology and Mineral Industries. In addition, the reports did not document any evidence of deep seated instability. The reports recommend against onsite infiltration of stormwater. Understanding that stormwater will be discharged offsite, the reports conclude that the site is stable and suitable for development provided the recommendations of the reports are followed.

Site Development concludes that the reports, taken in whole, satisfy the approval criteria for Sections [33.632](#) and [33.730.060.D.1.f](#).

Note: A detailed review of the proposed development, including the stability of the site following the proposed site improvements, will be completed at the time of the Site Development permit for mass grading and private right-of-way improvements and the development of individual lots.

### **Stormwater Discharge and Treatment**

The Bureau of Environmental Services will review the project for conformance to the current City of Portland [Stormwater Management Manual](#) (SWMM). As noted above, the LHS recommends against onsite infiltration of stormwater.

The Sewer, Storm & Water Plan, Sheet C3 (Plot Date 9-9-16, Exhibit C.4) show stormwater routed offsite. As noted above, a detailed review of the proposed stormwater outfall to the creek will be reviewed at the time of building permit.

As noted above, the reports indicate that the site is suitable for development and the proposal reasonably limits the risk of landslide potential on the site and other properties in the vicinity. Site Development notes that further geotechnical evaluation may be required for specific building plans at the time of construction plan review. Based on these factors, this criterion is 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 located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed. As indicated above, the applicant submitted a Grading Plan (Exhibit C.3) and a Landslide Hazard Study (Exhibit A.11) and Geotechnical reports (Exhibits A.3, A.37) that addresses this approval criterion.

The applicant's Grading Plan represents a minimal change to existing contours and indicates that construction staging and stockpile areas will be located in un-built home footprints and landscape areas. The plan also indicates that no storage or staging will occur within a tree protection show on Exhibit A-25.

The Site Development section of BDS noted the following (Exhibit E.5):

Preliminary site grading is shown on Sheet C2 (Plot Date 9-9-16, Exhibit C.3). It does not appear the proposed grading below the site retaining wall fronting Lots 4, 5, 6, and 7 reflects the recommendations of the June 23, 2016 Hardman Geotechnical Services supplemental report. The supplemental report recommendations will not result in substantial changes to the drainage patterns and will reduce likelihood of erosion. Therefore, Site Development concludes the submittal satisfies the Clearing and Grading Approval Criteria of Section [33.635.100.A](#).

As noted above, a detailed review of the proposed site grading will be performed at the time of Site Development permit.

In addition, as addressed under the findings associated with 33.630, Tree Preservation, the applicant has demonstrated compliance with tree preservation standards. The area where these trees are located is shown on the applicants clearing and grading plan must be retained for



compliance with Tree Preservation standards. No clearing and grading is proposed within the root protection zones of the trees on the site that are required 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 and tree preservation plan, this criterion is met.

### ***Land Suitability***

Site Development, the division of Development Services that makes determinations regarding Land Suitability has evaluated the submitted reports and finds the following (Exhibit C.5):

#### **Flood Hazards**

*Site Development will review projects for compliance with [Chapter 24.50 Flood Hazard Area](#) requirements at the time of building permit review. The site is not located within the FEMA Special (100-year) Flood Hazard Area or the 1996 Flood Inundation Area (therefore the standards of Zoning Code section 33.631, Sites in Flood Hazard areas do not apply). However, the creek that runs through the eastern portion of the site qualifies as an unidentified water course flood zone.*

*These watercourses, generally draining one acre or more, are not identified in a Federal Insurance Study and may not be identified on flood plain maps. In accordance with Section 25.50.050, the Bureau of Environmental Services shall determine procedures for establishing floodway boundary, flood fringe boundary, and base flood elevation data. The flood protection elevation shall be the base flood elevation plus two feet of freeboard. The width of the floodway shall not be less than 15 feet.*

*Sheet C3 (Plot Date 9-9-16, Exhibit C.4) shows storm sewer outfalls for Lots 4, 5, 6, and 7 discharging to a rip-rap pad with live shakings located within the 15-foot-wide floodway. Development (including fill) within the floodway is prohibited unless it is demonstrated by a technical analysis that the development will result in no increase in the base flood elevation. The analysis must be stamped by a professional engineer licensed in the State of Oregon.*

*The required no-rise analysis must be provided at the time of building permit. A detailed review of the proposed outfall and energy dissipater will be performed at the time of building permit.*

#### **Current Development / Septic Systems**

Building permit [15-277421 RS](#) for the demolition of the existing single family residence with partial basement is currently "under inspection". The inspection for the decommissioning of the existing onsite septic disposal system is included with this permit. The decommissioning inspection has not been requested. Prior to final plat approval, final approval of on-site septic decommissioning and the building demolition will be required.

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the applicant removed the existing house on the site prior to a demolition permit being issued at the site. The required demolition permit has since been submitted for review, but has not been finalized. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site, sewer capping, and decommissioning of the septic system prior to final plat approval.

With this condition, the new lots can be considered suitable for development, and this criterion (33.635.200) is met.

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

**Findings:** The applicant has proposed a shared court private street tract (Tract A) and an Open Space (Stream and Drainage Reserve) shown as Tract B.

The following easements are required for this land division:

- A Private Storm Sewer Easement and Sanitary Sewer Easement is required over relevant portions of Tract B for stormwater and sanitary sewer disposal for lots 4-7
- A Private Sanitary Sewer Easement is required over relevant portions of Lot 7 and tract B for sanitary disposal for lots 1-3

With a condition that the proposed tracts be owned in common by the owners of Lots 1 through 7 or a Homeowner’s Association, this criterion can be met.

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

*“A Declaration of Maintenance agreement for Tract A: Private Shared Court (name of street) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

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

**J. Streams, springs, and seeps. The approval criteria of Chapter 33.640, Streams, Springs, and Seeps, must be met;**

**Findings:** In this case, the applicant's existing conditions plan (Exhibit C.7) and wetland delineation (Exhibit A.22) indicates the presence of a stream on the site. The applicant is required to preserve this feature within a tract meeting the standards of 33.640.200.A. The tract must be identified on the final plat for the land division as "Tract B: Open Space (Stream and Drainage Reserve)". A maintenance agreement must be executed for Tract B, that outlines the restrictions and activities within the tract per the standards of 33.640.200.B.

No rights of way or street tract is proposed to cross the stream, so the standards of 33.640.200.C do not apply to this proposal. As allowed under 33.640.200.B.1 and 33.640.200.B.5, the applicant is proposing to send stormwater from Lots 4-7 into an outfall within the Open Space Tract within the existing stream channel. BES has determined that on site stormwater cannot discharge into a storm sewer and onsite infiltration is not feasible at this location. Private easements will be required across the Open Space Tract (Tract B) to accommodate this outfall.

As previously discussed, there is an existing 8-inch sanitary sewer that runs along the eastern boundary (next to the stream) of this site within a 10-foot-wide public sewer easement. The applicant is proposing to send sanitary sewer from Lots 1-7 to this existing sewer main since there is no practicable alternative. Private easements will be required across the Open Space Tract (Tract B) to accommodate these sewer connections.

Zoning Code section 33.640.200.A.1 requires the edges of the Open Space tract to be located at least 15 feet from the edge of the stream. The edge of the stream is determined as top of bank as determined in the wetland delineation.

The Wetland Delineation dated 6/13/16 from Schott's and Associates (Exhibit A.23) indicated that "The location of the waterway, as shown on the site plan provided by Mark Dane, is based on the delineated boundary and is accurate to the best of my knowledge." In order to ensure the site plan that was referred to in the report done by Schott's & Associates is the same site plan currently under review, Planning staff requested that the applicant provide verification from Schott & Associates that includes documentation of the site plan they were referring to in their 6/13/16 memo. This documentation was provided (Exhibit A.35), so it is clear the location of "top of bank" as shown on the applicants site plan is accurate based on the findings of the environmental scientist as required per Zoning Code section 33.640.200.A.1. Based on the current plan (Site Plan dated 11/1/16, Exhibits H.12-H.18), the edge of Tract B is located 15 feet from top of bank, which meets Zoning Code section 33.640.200.A.1.

Based on the discussion above, this criterion is met.

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

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. 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 applicant submitted a professionally prepared Traffic Impact Study (TIS), prepared by Lancaster Engineering, to address this criterion (Exhibits A.16 and A.40). PBOT has provided the following findings (see Exhibit E.2):

**Transportation Impacts (33.641.020)**

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

Street capacity and level-of-service

**Findings:** Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

Using the evaluation factors listed in this code section, the applicant should provide a narrative and all necessary plans and documentation to demonstrate that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The applicant included a professionally prepared Traffic Impact Study (TIS) to adequately address the above referenced approval criterion. The following discussion is based on PBOT's assessment of the submitted TIS and transportation impacts for this proposal.

The proposed land division will create 7 lots from the current lot in order to accommodate a combination of attached and detached homes. Referring to the ITE Trip Generation Manual, 9<sup>th</sup> Edition, the proposed development on the site will generate 5 vehicle trips during the morning peak hour and 7 vehicle trips during the evening peak hour. The new residences are projected to generate a total of 66 trips in total each weekday.

The applicant's traffic consultant obtained actual traffic counts and conducted observations during a different day at the following several nearby intersections during the traditional morning and evening peak hours to obtain data/traffic volumes in order to determine existing levels of service and to project the capacity of the intersections in relation to the proposed development. Additionally, to assess the impacts of the proposed development with regard to the existing Portland Public School District/Odyssey Program located at the intersection of SW 58<sup>th</sup> Ave/SW Montgomery, additional traffic counts were obtained for this intersection during the morning peak hour on a recent school-day. These traffic counts were hand-collected, and occurred in tandem with additional observations of school-related traffic.

<u>Intersection</u>	<u>Existing LOS AM Peak/PM Peak</u>	<u>Projected LOS AM Peak/PM Peak</u>
SW Skyline/SW Montgomery (signalized)	B/B	B/B
SW 58 <sup>th</sup> Ave/SW Montgomery (stop controlled)	B/-- *	B/--*

\*There is no PM Peak Hour LOS assessment for this intersection as the hours of the Odyssey Program do not coincide with the traditional PM Peak Hour.

As demonstrated above, all study intersections are currently operating well within City operational standards, and will continue to do so following the addition of the project trips from the proposed development. As found by the applicant's traffic consultant, site generated vehicle trips will have negligible impacts to the capacity of nearby intersections. This evaluation factor is satisfied.

The following should be considered as additional information only – PBOT compliments the applicant and his traffic consultant for providing this assessment of school-related traffic as background information from concerns that were raised several years ago in relation to another nearby land division proposal.

As of September 2016, Portland Public Schools' Odyssey Program, a focus option for PPS students in grades K-8 has occupied the school building at the SW 58<sup>th</sup> Ave/SW Montgomery intersection. The most recent previous use of the building was to house sixth-grade classes from nearby West Sylvan Middle School.

The morning peak period was determined to be the critical period for analysis of school traffic and its impacts on the adjacent roadways. The 2015 traffic counts at the nearby SW Skyline/SW Montgomery St intersection showed that the intersection of SW 58<sup>th</sup> Ave/SW Montgomery St experiences slightly higher volumes during the AM peak period than during the evening. Further, the AM peak periods of the proposed development and the existing school are concurrent, while the school's later-day peak period occurs between 2:00-4:00 PM and the expected peak for the residential development occurs between 4:00-6:00 PM. Observations were therefore conducted during the morning peak period, between 7:00-9:00 AM.

Drop-off activities occurred almost exclusively between 7:40-8:05 AM. Most vehicles arriving to drop-off a student approached from the east, turning left onto southbound 58<sup>th</sup> Ave at the intersection of SW 58<sup>th</sup> SW Montgomery. Along the west side of SW 58<sup>th</sup> Ave just south of this intersection, there is an approximately 90-ft section of frontage adjacent to the school that has the capacity to accommodate 5 stopped vehicles. Though signed as 2-hour parking, this area was observed to be used only for short-term drop-offs during the AM peak hour. Vehicles arriving for drop-off activities would typically utilize a parking space along this stretch if one was free. Vehicles were then observed to continue south, turning into the school driveway and looping around the school before exiting eastbound along the school driveway approach to the SW 58<sup>th</sup>/SW Montgomery intersection. If space along the SW 58<sup>th</sup> Ave frontage was unavailable when a particular vehicle arrived, the vehicle would then loop around the school as described above, dropping off the student prior to re-entering the intersection from the school driveway. Queues resulting from drop-offs occurring along SW 58<sup>th</sup> Ave were thus not observed to have a significant impact on the operation of this intersection, extending into the intersection for a total of only about 20 seconds of the peak hour. It is noted that no school buses arrived at or departed from the site during the observation period.

Based upon this analysis, it is not expected that the proposed new homes will have a significant impact on school

traffic, nor will the new Odyssey Program significantly impact traffic generated by the project. The impacts from the school are concentrated along the southern leg of the SW 58<sup>th</sup>/SW Montgomery intersection; the proposed project is not anticipated to add any new trips to this leg of the intersection. Further, the expected peaks and travel patterns of the two properties do not significantly overlap. The study intersections and nearby roadways can safely accommodate both the proposed new use in addition to all existing uses.

#### Vehicle access and loading

**Findings:** Access to the proposed subdivision will be via a private street (shared court) with one curb cut along the site's SW 58<sup>th</sup> Ave frontage. Loading is expected to take place using the shared court and the approx 68-ft of remaining curb length along the property frontage (subtracting the curb-cut length). Loading activities associated with residential land uses are typically light and infrequent, and there is ample space for these activities to occur on-site on the proposed driveways. The subject site provides adequate access for motor vehicles as well as other modes. Vehicle access and loading space at this location are sufficient to accommodate the existing uses as well as the proposed project. This evaluation factor is satisfied.

#### On-street parking impacts

**Findings:** The parking demand that will be generated as a result of the proposed project was estimated using rates from *Parking Generation*. The data utilized to determine the parking demand for the proposed new office use were for land use #210, *Single-family Detached Housing*. Based upon these data, the mean peak parking demand for the proposed new office space is 15 parking spaces.

The applicant's traffic consultant conducted on-street parking observations during the analysis period recognized as the expected peak period for residential parking. There are approximately 31 on-street parking spaces within the parking survey area (SW 58<sup>th</sup> Ave between SW Montgomery and SW Clay). During the observation period, the applicant's traffic consultant counted 13 vehicles parked within the surveyed area. With the proposed development, 8 on-site parking spaces will be included.

Even if all of the expected demand (15 spaces) was to occupy the on-street parking supply in the area, there would be sufficient to accommodate the entire project's demand. Based on observations conducted, the area will be able to accommodate the existing and new parking needs. This evaluation factor is satisfied.

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

**Findings:** Available transit service in the area exists via Tri-Met bus route #58 (Canyon Rd). The nearest stops to the subject site are at the Sunset Hwy ramp at the SW Skyline interchange. The site is well served by transit, and comfortable and safe walking routes between the site and all stops are available. This evaluation factor is satisfied.

#### Impacts on the immediate/adjacent neighborhoods

**Findings:** As analyzed above, the impact of the proposed project's generated vehicle trips on area intersections and streets will be negligible and the operations of the transportation system will continue to be acceptable. Currently, there is sufficient on-street parking to serve the demand of the existing uses in the area. As demonstrated above, adequate on-street parking opportunities will remain after the construction of the proposed subdivision. From a transportation perspective, these noted areas (transportation system and parking impacts) are impacts that can adversely affect neighborhoods. These issues are not expected to negatively impact the immediate or adjacent neighborhoods. This evaluation factor is satisfied.

#### Safety for all modes

**Findings:** Crash records were examined by the applicant's traffic consultant for the most recent reporting time frame available (2010-2014) for the study intersections. Crash rates and patterns were below a level indicative of potential safety concerns, and there were no apparent safety deficiencies noted during site visits. Crash rates greater than 1.0 CMEV (crashes per million entering vehicles) are generally indicative of a need for further investigation and possible mitigation. Based on the detailed crash data and the calculated crash rates, there are no apparent existing safety deficiencies at the study intersections. Accordingly, the vicinity of the site is safe for motor vehicles.

Regarding active modes, the streets in the vicinity of the site are low-speed, low-volume residential roads that can safely be shared between bicycles and motor vehicles. With regard to bicyclists, there are identified bike facilities (Portland Bike/Walk Map) in the area, including a shared roadway (SW Skyline) and a Multi-use path/paved facility and

Bile lane (SW Canyon Ct).

Sidewalks are not regularly available throughout the immediate area other than along the multi-dwelling residential development abutting the subject site to the south and then further south at the intersection of SW 58<sup>th</sup> Ave/SW Montgomery. As a condition of approval of the proposed subdivision, the applicant will be required to construct a new sidewalk along the site's frontage, thereby furthering the pedestrian system in the area.

The vicinity of the proposed residential land division currently has no safety concerns for any mode of transportation, and will not be adversely affected by the proposed land division. This evaluation factor is satisfied.

*In summary, as analyzed above and as evidenced in the submitted TIS, with acceptable analyses, methodologies and conclusions, all of which PBOT staff supports, the applicant has clearly demonstrated that "the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area".*

### **Street Classification**

At this location, the City's Transportation System Plan classifies SW 58<sup>th</sup> Ave as a Local Service street for all modes.

At this location, according to City GIS, SW 58<sup>th</sup> Ave is improved with approx.. 20-24 ft. of paving with no curb or sidewalk within a 40-ft wide right-of-way (r.o.w.).

For Local Service streets abutting R2-zoned sites, the City's public r.o.w. standards document requires a 62-ft r.o.w. width to accommodate a 32-ft roadway width (which would allow parking along both sides) & two 15-ft wide sidewalk corridors (0.5-ft curb, 8-ft stormwater management facility, 6-ft sidewalk & 0.5-ft frontage zone).

There is insufficient r.o.w. along the street to accommodate the above referenced street section, accordingly, property dedication will be required. It appears that there will be a property dedication requirement of approx 11-ft (this has been identified in relation to City GIS, which is not supported by a survey and assuming a standard 8-ft wide stormwater management facility). The precise amount of dedication can only be determined via a survey and once the applicant's civil engineer has proposed an appropriately sized and designed stormwater management facility. The amount of dedication *may therefore vary*. *Property dedication will occur as part of the Final Plat phase of this land use process.*

*In relation to the dedication requirement, regardless of what that ultimately might be, the new curb shall be located 16-ft from the centerline of the r.o.w. This curb placement should be in alignment with the curb (sidewalk corridor) that was constructed in relation to the project immediately to the south of the subject site.*

The r.o.w. improvements will need to be designed by an Oregon licensed civil engineer and constructed under a Public Works Permit, which is separate from the Building Permit that will be necessary for construction of the proposed project. Conceptual PW Design must be submitted to Public Works Permitting in order to verify the type of PW Permit that is required and to determine the required performance guarantee amount. PW Design Review will determine specific design elements including stormwater management, bus stop, curb-cuts, landscaping, location of signage, location of utility poles and street lights, as well as other design requirements. As of the writing of this response, the applicant has already received Concept Plan (30%) approval via 16-115387 WT/TH0321 and 16-119135 WE/EP226.

Plans, fees, a contract (called the application for permit) and a performance guarantee for the estimated value of the improvement must be submitted prior to (Final Plat approval). The performance guarantee may be in the form of a surety bond, irrevocable letter of credit, set-aside account, or cash deposit. Applicant should contact Public Works at (503) 823-1987 for appropriate forms and additional information.

### **RECOMMENDATION**

PBOT has no objections to the proposed land division subdivision, subject to the following conditions:

1. Right-of-way improvements to the satisfaction of the City Engineer and consistent with current City standards will be required along the site's SW 58<sup>th</sup> Ave frontage.
2. Prior to Final Plat approval, Public Works financial guarantees for the r.o.w. improvements required along the site frontage shall be provided.

3. Prior to Final Plat approval, property dedication necessary to provide City standard r.o.w. improvements shall be completed. Public Works submitted plans for 16-115387 WT/TH0321 and 16-119135 WE/EP226 show all necessary property dedications.

Based on the discussion above, this criterion is 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:

<b>33.651 Water Service standard</b>
The Water Bureau has indicated that service is available to the site from the 6-inch water main in SW 58th Ave, as noted on page 2 of this report. The water service standards of 33.651 have been verified. This criterion is met.
<b>33.652 Sanitary Sewer Disposal Service standards</b>
The Bureau of Environmental Services (BES) has indicated that an 8-inch concrete public sewer main is located along the eastern boundary of the site within a 10-foot-wide public sewer easement, as noted on page 2 of this report. The applicant has submitted a Site Utilities Plan (Please see plan set dated 11/1/16) that show sanitary sewer laterals from the main located within the easement along the east property boundary through the shared court private street tract to serve the proposed lots 1-3 (via a 10' easement over lot 7), while Lots 4-7 are proposed to have direct sanitary connections to this main which will be located within Tract B. Therefore, criterion 33.652.020 is met.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b>
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant submitted a Landslide Hazard Study (Exhibit A.11), Geotechnical Engineering Report (Exhibits A.3), and Stormwater Management Report (Exhibits A.8, A.29 and A.33) to address this approval criterion. The Bureau of Environmental Services (BES) has the following comments (Exhibit E.1): <ul style="list-style-type: none"> <li>• <i>Proposed Development:</i> Lots 1 - 3 and the shared court are proposed to be served by new connections to a public storm sewer extension in SW 58<sup>th</sup> Avenue. Lots 4 – 7 are proposed to be served by new private storm laterals that would discharge to the drainageway located on the east side of this site, within proposed Tract B.</li> <li>• <i>Public Works Permit:</i> Currently there are no public sewers directly available to Lots 1 - 3; therefore the applicant proposes to extend a public sewer to provide individual connection locations. Under Public Works Permit (PWP) #EP226, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension on June 3, 2016; therefore BES finds that storm sewer can be made available to Lots 1 - 3 as shown.</li> <li>• <i>Lots 1 – 3 and Shared Court:</i> Stormwater runoff from proposed structures on Lots 1 – 3 is proposed to meet pollution reduction and flow and volume control standards with individual flow-through planters sized per the Simplified Approach. A paver block system with no underdrain is proposed for the non-roof impervious area, which includes the shared court and driveways for each lot. ZTec’s stormwater narrative</li> </ul>

(Exhibit A.33) indicates some stormwater infiltration will occur but excess runoff will be collected in a stormfilter catch basin and discharged to the public storm sewer system and a Special Circumstances request is proposed to pay a fee in lieu of meeting flow control requirements. The stormwater calculations submitted indicate the paver system will provide complete stormwater management. The slope of this site is 20% or greater. Per the 2014 SWMM, pervious pavement is not allowed if the slope of the area is 10% or greater. The stormwater narrative also states “there is no appropriate location for a vegetated facility to provide water quality and detention,” The stormwater narrative also states “there is no appropriate location for a vegetated facility to provide water quality and detention,” but no additional information is provided to specifically indicate why they cannot be located on the site. Prior to preliminary plan approval, the applicant must resolve discrepancies in the stormwater report and calculations, provide more detailed information indicating why vegetated stormwater facilities cannot be included in the project design, and submit the proposed Special Circumstances request. If the Special Circumstances request is denied, then the applicant must revise the proposed stormwater management plan and calculations accordingly prior to preliminary plan approval. Prior to preliminary plan approval identify an approvable escape route for the shared court.

The **Bureau of Environmental Services (BES)** provided a revised response dated 11/2/16:

The following additional information that was received subsequent to those comments:

- Stormwater Management Report provided by ZTec Engineers (manually corrected revision date of October 2016)
- Special Circumstances Application Form and Information provided by ZTec Engineers (dated October 7, 2016)
- Site plans (Sheets EC, C1-C5 and L1 provided by ZTec Engineers (dated November 1, 2016)
- Stormwater calculations provided to ODOT via email on October 31, 2016 by ZTec Engineers (stormwater calculations dated July 7, 2016 and October 31, 2016)

Based on this additional information, BES has determined that sufficient information has been provided to demonstrate a feasible sanitary disposal and stormwater management plan for this project. With the recommended conditions of approval, BES has no further objections to approval of the Land Division Subdivision application.

Note that BDS requires a plumbing code appeal for all situations where private sanitary and stormwater connections for each lot are not located in any lot other than the lot that is the site of the building, structure, or premises served by such facilities (refer to Oregon Plumbing State Code section 308.0 – Location).

Also note that, as previously indicated in BES Land Use Response Addendum dated September 28, 2016, the stormwater report submitted indicates the paver system can function as pervious pavement. The slope of this site is 20% or greater. Per the current Stormwater Management Manual, pervious pavement is not allowed if the slope of the area is 10% or greater. The applicant must resolve discrepancies in the stormwater report and calculations prior to building permit approval.

*Be aware that the conceptual utility plan submitted for land use review is provided in order to demonstrate feasibility of the proposed land division project to meet BES stormwater management and sanitary disposal requirements and meet BES approval criteria. A specific utility plan is not being approved through this land use review. Be aware that more detailed information will need to be provided at the time of building*



*permit review and revisions to the stormwater management will be required.*

If the land use application is approved, BES recommends that the following conditions be included in the decision:

1. A plumbing code appeal for private sanitary connections proposed to cross Lot 7 and private storm connections proposed to cross Lots 4 -6 and Tract B must be approved prior to final plat approval. If a plumbing code approval is not obtained then a revised utility plan must be approved by BES.
2. To ensure the availability of sewer service to the benefit of Lots 1 - 3, the applicant must provide legal access – via easement or other legally acceptable instrument – over Lot 7 prior to final plat approval. If this condition is met with an easement, the final plat must show and label the easement over the relevant portions of Lot 7 and the easement area must correspond to any granted plumbing code appeals.
3. To ensure the availability of a stormwater discharge point to the benefit of Lots 1 – 7, the applicant must provide legal access – via easement or other legally acceptable instrument – over the shared court, Lots 4 – 6 and Tract B prior to final plat approval. If this condition is met with an easement, the final plat must show and label the easement over the relevant portions of the shared court, Lots 4 – 6 and Tract B and the easement area must correspond to any granted plumbing code appeals.
4. The final plat must show and label a drainage reserve tract over the relevant portions of the site to the satisfaction of BES and BDS.
5. Prior to final plat approval, the applicant must complete the following related to the construction of public stormwater facilities within SW 58<sup>th</sup> Avenue, to the satisfaction of BES: through the Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
6. The applicant is required to construct a storm sewer to provide service to the proposed development. Prior to final plat approval, the applicant must complete one of the following to the satisfaction of BES:
  - a. Through a Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.

As noted above per the conditions of approval, the applicant’s stormwater management plan has demonstrated compliance with the approval criteria. For these reasons, criterion 33.653.020 & .030 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 Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject block, does not satisfy the above referenced spacing goals, similar to many other areas of this quadrant of the city. Given topographic, geographic and environmental overlay constraints, oddly configured partitions and subdivisions and existing development, furthering the City’s connectivity goals in this area is challenging. Additionally, providing either a full width public street r.o.w. or pedestrian connection through the subject site would significantly reduce the development potential of the site. PBOT has no concerns regarding this approval criterion.

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, which will be located in the new 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 7 dwelling units and it is approximately 180 feet in length from the frontage along SW 58th Ave. For these reasons, this criterion is met.

**33.654.120.B & C Width & elements of the right-of-way**

At this location, SW 58<sup>th</sup> Ave is improved with approximately 20-24 feet of paved roadway surface in a 40-foot-wide right-of-way. There are no curbs 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 the site’s SW 58<sup>th</sup> Ave frontage must be reconstructed to achieve the required 15-foot pedestrian corridor (0.5’ curb, 8’ stormwater management facility, 6’ sidewalk, and 0.5’ setback to property configuration) in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, 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.

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

**33.654.120.G – Approval criteria for shared courts**

The applicant has proposed a shared court private street (Tract A) to allow pedestrians and vehicles to use the same circulation area. The applicant has not provided a narrative to address the standards of the Private Street Administrative Rules or the Shared court approval criteria and standards of Title 33 (33.654.120.G). However, the submitted plans depict proposed improvements (Exhibits C.1-C.6).

The proposed street improvements appear to consist of a two separate paver surface materials, five planters throughout the shared court including a planter area at the terminus of the street tract and one on-street parking space. The Permanent Rule (which includes special standards for Shared courts) requires the applicant to provide Shared Court Amenities outside the clear zone. This amenity must be provided in addition to the outdoor area requirement of 33.654. The outdoor area requirement of the Zoning Code (33.654.120.G.1.c(3), requires at least 250 square feet of grassy area, play area, or dedicated gardening space, exclusive of vehicle parking areas, this area must be at least 15 feet wide at its narrowest dimension and is shown on the revised plans (see site plan set dated 11/1/16, Exhibits H.12-H.18). The large planter area at the terminus of the shared court (south of lots 1-3 and east of lot 7) is going to be utilized to meet this requirement since this planter area is now 1,691 sq. ft. and approximately 15 feet in width.

In addition, small landscape islands or planters are also proposed as a shared court amenity. In order to utilize planters as an amenity, per the Permanent Rule, planters a minimum of 50 sq. ft. must be provided. All of the planters proposed are now at least 50 sq. ft. (See site plan set dated 11/1/16, Exhibits H.12-18). The applicant has also proposed a bench, fountain and 3’-4’ wood chip path surface through the shared court’s outdoor area located along the eastern property boundary. This path should provide a direct connection to SW 58<sup>th</sup> Ave.

In addition, as an additional Shared Court amenity, the applicant proposed to plant one street tree for every 500 square feet of street area, which would result in 11 trees being planted to meet this standard based on the size of the Shared Court to meet this standard. The applicant’s current proposal shows enough new trees within the Shared Court to meet

this requirement.

Therefore, this proposal is in compliance with the amenity requirements specified in the Permanent Rule.

In addition, Zoning Code section 33.654.120.G.1.b states that a shared court may be up to 150 feet long. The proposed Shared court is approximately 280 feet in length since the outdoor area proposed within the shared court (which is located directly south of lots 1-3) is technically considered part of the shared court. However, the shared court roadway (area where motorized vehicles will be allowed) is approximately 180 feet in length. The length of the Shared Court exceeds the maximum standard length. However, this standard was modified per Zoning Code section 33.630.400.A (Modifications That Will Better Meet Tree Preservation Requirements) due to the fact that the shared court design was modified in order to meet the minimum of Tree Preservation standards of 33.630.100.A.3 (discussed on pages 5-6).

The Site Development Section of BDS has reviewed the shared court street design for compliance with the Private Street Administrative Rules and notes the following (See revised Site Development response dated 11/2/16):

**Private Street/Sidewalks**

The proposal includes a private right-of-way tract that will be developed as a shared court. Shared courts must allow the AASHTO P design vehicle to maneuver through the clear zone in an unobstructed manner. Parking spaces, garages and other vehicle maneuvering areas must accommodate the P design vehicle; however, entering and exiting these spaces may be allowed with multi-point turns. Entering and exiting of parking spaces, garages and other vehicle maneuvering areas must be possible with single-point turns when considering the proposed Shared Court Design Vehicle. The dimensions of the proposed Shared Court Design Vehicle are tabulated below.

Proposed Shared Court Design Vehicle	
Length: 16 feet	Front Overhang: 3.5 feet
Width: 6.5 feet	Track: 5.3 feet
Wheel Base: 9.4 feet	Curb-to-Curb Turning Radius: 20 feet
The dimensions of the proposed shared court vehicle represent top selling mid-sized vehicles in 2012.	

Site Development reviewed the proposed shared court design drawings (Plot Date 11-1-16) and the October 24, 2016 Lancaster Engineering turning movement analyses for compliance with the [Private Street Administrative Rules](#) and the turning movements identified above.

Vehicle and pedestrian guardrails may be required along the edge of the shared court. Guardrail requirements are provided in Part III.E.2.o and Part III.H.2.b of the [Private Street Administrative Rules](#). Vehicle guardrails are required where embankment slopes exceed 33 percent within a horizontal distance of 7-feet measured from the edge of the driving lane. Pedestrian guardrails must be provided where the vertical drop at the edge of the sidewalk (e.g. delineated pathway) is 30-inches or greater.

The shared court drawings, Sheets C4 and C5 (Plot Date 11-1-16) show a guardrail to be installed on top of the wall along the northern property line. A detailed review of pedestrian and vehicle guards will

be completed at the time of Site Development permit review.

The applicant is encouraged to review the requirements of [Section 1013.2](#) of the 2014 Oregon Structural Specialty Code and the [Portland Pedestrian Design Guide](#). Guards may need to serve for both pedestrians and vehicles.

The preliminary private street drawings do not include the location of required signage. Signage must be installed entirely within the private street tract per Part III.K.2.c.11 and Part III.O.1.a of the [Private Street Administrative Rules](#). Based on a review of the private street tract, it appears that adequate space is provided for the installation of the required signs.

Administrative Building Code Appeal [14158](#) was approved to allow an alternate design to the backing distance requirements of Part III.K.2.c.5 and Figure 16 of the [Private Street Administrative Rules](#) for Lot 7. The private street drawings were revised multiple times subsequent to the building code appeal approval to satisfy setback requirements of Part III.N.2.a of the Private Street Administrative Rules. As a result, it appears there is a typographical error on the Lot 7 driveway width as shown on Sheet C4 (Plot Date 11-1-16).

The driveway width is dimensioned to be 12.5 feet. However, the dimension leader lines do not match the driveway edge of pavement shown on the drawing. Based on scaling, the width of the pavement is on the order of 13.5 feet. This is less than the 14 foot width shown in the private street drawings and modeled in the Lancaster Engineering turning movement analysis approved in the appeal. However, based on a review of the turning movement analyses, Site Development concludes that the turning movements can be accomplished as summarized above.

### **Conclusions**

Site Development reviewed the proposed private right-of-way tract drawings plotted November 1, 2016 for general compliance with the [Private Street Administrative Rules](#) and the turning movements noted above. Site Development takes no exceptions for the purposes of this land use approval. Additional information and minor changes to the private street design may be required at the time of Site Development Permit.

A Site Development Permit is required for the construction of private rights-of-ways. A permit submittal must be made prior to final plat approval. A performance guarantee is required and also must be submitted prior to final plat approval. Additionally, a separate plumbing permit is required for the plumbing component of the street construction. The paving for the shared court must be installed before permits for residential construction on any of the individual parcels will be issued. If pervious pavements are approved, they must be installed and a pervious pavement protection plan approved before permits for residential construction on any of the individual parcels will be issued. Please visit the Bureau of Development Services (BDS) web site at [www.portlandonline.com/bds](http://www.portlandonline.com/bds) for information on obtaining a permit.

As noted above, the applicant has provided an approvable design for the proposed shared court right-of-way. Therefore, criterion 33.654.120.G 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.

### **33.563.410 Land Divisions and Planned Developments.**

The following regulations apply to land divisions that will create four or more lots and to all Planned Developments within the Skyline subdistrict. Adjustments are prohibited.

**A.** Supplemental application requirements. The following supplemental application requirements apply to proposals for land divisions or Planned Developments on sites of 5 acres or larger:

1. Sites of 5 acres or larger. Applications for a land division or Planned Development on sites of 5 acres or larger must include a transportation analysis with the following information:
  - a. The potential daily and peak hour traffic volumes that will be generated by the site;
  - b. Distribution on the street system of the traffic that will be generated by the site;
  - c. The extent to which ridesharing and transit incentive programs might reduce the vehicle trips generated by the site; and,
  - d. Current traffic volumes on the principal roadways relative to the site;
2. Sites of more than 20 acres. Applications for a land division or Planned Development on sites of more than 20 acres must expand the transportation analysis required in Paragraph A.1, above, to include the projected traffic volumes on the principal roadways relative to the site should the proposed development and other approved, but undeveloped proposals, be fully developed.

**Findings:** The site is approximately 21,780 square feet in area, less than half an acre. Therefore, this criterion does not apply.

**B.** Additional requirements for approval. In order to be approved, proposed land divisions and Planned Developments must meet the following requirements:

1. Public sewer and water must be available to the site; and

**Findings:** As discussed on Pages 14 of this report, the Water Bureau has confirmed that water service is available and the Bureau of Environmental Services has confirmed that sanitary sewer is available to the site. This criterion is met.

2. The applicant must either:
  - a. Show that the existing public transportation is adequate; or
  - b. Participate in or subsidize a private transportation service.

**Findings:** The Bureau of Transportation reviewed the availability of transit service and facilities and connections to transit as part of the transportation impacts (PCC 33.641). Their findings are summarized on Pages 9-13 of this report and Exhibit E.2. PBOT had the following comments:

Available transit service in the area exists via Tri-Met bus route #58 (Canyon Rd). The nearest stops to the subject site are at the Sunset Hwy ramp at the SW Skyline interchange. The site is well served by transit, and comfortable and safe walking routes between the site and all stops are available. This evaluation factor is satisfied.

The site is approximately 800 feet from the intersection of SW 58<sup>th</sup> Ave and SW Canyon Ct. where Tri-Met provides a bus stop and service for line Tri Met bus line number 58. If the typical City block is approximately 500 feet, then the proximity of to this bus station from the subject site is approximately 1.5 blocks. Bus 58 provides service every 16-34 minutes between peak hour morning times between 7am and 8:30 am where bus service is available at the following times at the nearest transit station listed on Tri-Met's website (SW Canyon and SW 87<sup>th</sup> Ave): 7:03am, 7:19am, 7:36am, 7:56am and 8am (see exhibit G.7), while also providing afternoon peak hour

service approximately every 30 minutes between 4pm and 6pm, with bus service scheduled at the following times: 4:22pm, 4:52pm, 5:22pm and 5:51pm.

Based on the discussion above, 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:

- Detached Houses- Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**
- Houses, detached houses and duplexes accessed by common greens, shared courts, or alleys--special requirements apply to this type of development per Section 33.120.270.E.
  1. The front and side minimum setbacks from common greens and shared courts is 3 feet.
  2. The setbacks of garage entrances accessed from a shared court must be either 5 feet or closer to the shared court property line. If the garage entrance is located within 5 feet of the shared court property line, it may not be closer to the property line than the residential portion of the building
  3. When a land division proposal includes common greens, shared courts, or private alleys, maximum building coverage is calculated based on the entire land division site, rather than for each lot.
  4. For attached houses, uncovered rear balconies that extend over an alley for vehicle maneuvering area between the house and rear lot line do not count toward maximum building coverage calculations.
- Paved Vehicle Area: It should be noted that the typical driveways shown for Lot 1-4 exceed the allowed vehicle paving area standard of 33.266.120.C.3. However, per Zoning Code section 33.266.120.C.3.a (2), on sites where the front lot line abuts a shared court, paving blocks or bricks may be used to surface the entire area between the front lot line and the front building line.

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

## OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance

with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

<b>Bureau</b>	<b>Code Authority and Topic</b>
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 11 – 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 is required to make improvements to the proposed shared court 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, turning radius, addressing, Fire flow, no parking and aerial Fire Departments access roads. These requirements are based on the technical standards of Title 31 and 2014 Oregon Fire Code (Exhibit E.4). Please note that the applicant submitted Fire flow documentation (Exhibit A.10) indicating that the fire flow available to the site equaled 1,500 gallons per minute (GPM). Planning staff following up with the Water Bureau since the documentation from the applicant didn't come directly from the Water Bureau. This correspondence indicated Fire Flow as 500 GPM (Exhibit G.8).
- The applicant must meet the requirements of Urban Forestry at the time of development. This requirement is based on the standards of Title 11 (Exhibit E.6).

**CONCLUSIONS**

The applicant has proposed a 7-lot subdivision with a new shared court private street (Tract A) and stream preservation tract (Tract B), as shown on the revised plans (dated 11/1/16, Exhibits H.12-H.18). As discussed in this report, the relevant standards and approval criteria have been met with conditions.

Therefore, the proposed Land Division Review can meet the applicable approval criteria and can be approved.

**TENTATIVE STAFF RECOMMENDATION**

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

**Approval** of a Preliminary Plan for a 7-lot subdivision for detached and attached housing and a

Shared Court Private street tract and Open Space (stream and draing reserve) tract, that will result in 7 single dwelling lots as illustrated with the site plan set dated 11/1/16 (Exhibits H.12-H.18) subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for BES and Fire review and approval. That plan must portray how the conditions of approval listed below are met.

- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Location and Root Protection Zone (RPZ) of all protected trees per condition D.1
- Any other information specifically noted in the conditions listed below.
- Section 33.120.270.D of the Zoning Code allows reduced side setbacks (3-feet from property lines) for detached houses in the multi-dwelling zones on lots that are at least 25 feet wide. This allowance only applies to the setbacks that are interior to the site. The setbacks around the perimeter of the land division site are that of the base zone. This proposal is eligible to use these provisions. **To take advantage of this allowance the reduced side setbacks must be shown on a supplemental survey for the land division at the time of final plat approval.**
- If required, the fire access lane with a turning radius of 25 feet inside, 45 feet outside.

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

1. The applicant shall meet the street dedication requirements of the City Engineer for SW 58<sup>th</sup> Ave. The required right-of-way dedication must be shown on the final plat.
2. A Private Storm Sewer Easement is required over relevant portions of Tract B for stormwater disposal for lots 4-7.
3. A Private Sanitary Sewer Easement is required over relevant portions of Lot 7 and Tract B for sanitary sewer disposal for lots 1-7.
4. If required, an Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the relevant portions of the private street to the satisfaction of the Fire Bureau.
5. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Shared Court *name of street*". A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lot 1 through 7, or a Homeowners Association.
6. The Open Space tract shall be noted on the plat as "Tract B: Open Space (Stream and Drainage Reserve)". A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of lots 1 through 7.
7. 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-C.14 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:**

### **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 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 Shared Court and mass grading and utility construction for the new 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 the site plan set dated 11/1/16 and the Private Street Administrative Rule. In addition, the street shall include the following:
  - The Shared Court must meet the tree and landscaping standards in Section III.K of the Private Street Administrative Rule.
  - Specific amenities required include 3-4' wide wood chip surface path, bench and fountain as shown on site plan set dated 11/1/16.
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 shared court and all required site development improvements. 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/mass grading described in Condition C.2. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Site plan set dated 11/1/16) with the following additions:
  - It must clearly show the protected trees and associated Root Protection Zones required per Condition D.4 below.

#### **Utilities**

5. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SW 58<sup>th</sup> Ave. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
6. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) and submit a plumbing code appeal for private sanitary connections proposed to cross Lot 7 and private storm connections proposed to cross Lots 4 -6 and Tract B must be approved prior to final plat approval. If a plumbing code approval is not obtained, then a revised utility plan must be approved by BES.
7. 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.
8. 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 Building Code Appeal prior final plat approval.

9. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers on any lots that cannot meet the standard 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. If the exception cannot be utilized, an approved building code appeal will be required prior to final plat approval.

**Existing Development**

10. A finalized permit must be obtained for demolition of the existing residence and detached garage on the site and capping the existing sanitary sewer connection. (if the demo includes a primary residential structure, add:) Note that Title 24 requires a 35-day demolition delay period for most residential structures.

**Required Legal Documents**

11. A Maintenance Agreement shall be executed for the Sanitary Sewer and Stormwater Management Easements described in Condition B.2 and B.3 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
12. The applicant shall execute a Maintenance Agreement for the Shared Court Private Street tract and Open Space Tract (stream and drainage reserve). The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-7 or a Homeowners Association 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.
13. If required, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development to contain internal fire suppression sprinklers, per Building Code Appeal no \*. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.
14. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to the site. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. The minimum and maximum density for the lots in this land division are as follows:

Lot	Minimum Density	Maximum Density
1	1	1
2	1	1
3	1	1
4	1	1

5	1	1
6	1	1
7	1	1

2. The private street improvements must be substantially complete with the paving blocks 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 finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. Development within the Shared Court Tract and on Lots 1-3 and Lot 7 shall be in conformance with the Tree Preservation Plan and the applicant's arborist report (Exhibit A.25 and shown on the supplemental survey required per condition A above). Specifically, trees numbered 16, 17, 19, 24 are required to be preserved, with the root protection zones indicated on Exhibit A-25. In addition, trees 36 and 37 (within tract B) are required to be protected with root protection zones based on the diameter of these trees. 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/her supervision.
5. The applicant must complete the frontage improvements along SW 58<sup>th</sup> Avenue as required by the Portland Bureau of Transportation to the satisfaction of the City Engineer.
6. Driveway configurations for Lots 1-7 must be in substantial conformance with Exhibits H.12-18.
7. The applicant must post the shared court with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
8. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
9. If required, the applicant will be required to meet any requirements identified through a Building Code Appeal/install residential sprinklers in the new dwelling units. Please refer to the final plat approval report for details on whether or not this requirement applies.

**Procedural Information.** The application for this land use review was submitted on August 20, 2015, and was determined to be complete on January 26, 2016.

*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 August 20, 2015.

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

review period be extended 245 days as stated with Exhibit A.7. Unless further extended by the applicant, **the 365 days will expire on: January 26, 2017.**

**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 recommendation 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 report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case.** This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at [www.portlandonline.com](http://www.portlandonline.com). On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

**Appeal of the decision:** The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

**Who can appeal:** You may appeal the decision only if you write a letter which is received before the close of the record on hearing or if you testify at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000.00).**

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing

to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

**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.**

Planner's Name: Shawn Burgett

Date: November 2, 2016

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  1. Applicants Narrative received 8/20/15
  2. Early Neighborhood Notification documentation
  3. Geotechnical Report dated 6/11/15
  4. Arborist Report dated 5/12/15
  5. Transportation Impact Memo received 8/20/15
  6. Plan set and elevations received 8/20/15
  7. Full extension (245 days) to 120-day clock. Received 9/5/15
  8. Stormwater Management Report received 2/17/16
  9. Arborist Report dated 2/5/16
  10. Fire Flow documentation received 2/17/16
  11. Landslide Hazard Study dated 10/16/15, received 2/17/16
  12. Shared court paving material submitted 2/17/16
  13. Details for bench and short term bicycle parking received 2/17/16
  14. Full Plan Set received 1/26/16
  15. Turning radius diagrams received 2/17/16
  16. Transportation Impact Analysis dated 10/27/15, received 2/17/16
  17. Deed History, received 2/17/16
  18. Memo from Schott & Associates dated 3/29/16
  19. Arborist report dated 4/11/16, received 6/15/16
  20. Arborist report dated 4/28/16
  21. Memo from Schott & Associates
  22. Jurisdictional Wetland Delineation dated April 2016
  23. Wetland Delineation dated 6/13/16

24. Site Plan received 6/15/16
  25. Arborist report dated 7/15/16, received 7/25/16
  26. Wetland Land Use Notification, e-mail from applicant dated 7/22/16
  27. Memo from applicant dated 7/25/16
  28. Turning Radius diagram dated 7/18/16
  29. Stormwater Management report, Revised July, 2016. Received 7/25/16
  30. Site Plans received 7/25/16
  31. Memo from applicant received 9/12/16
  32. Revised Plan set received 9/12/16
  33. Stormwater Management report, revised September 2016. Received 9/14/16
  34. Turning Analysis dated 9/23/16, received 9/23/16
  35. Memo from Schott & Associates dated 9/27/16, received 9/27/16
  36. Correspondence from Department of State Lands, dated 7/5/16, received 9/27/16
  37. Supplemental Geotechnical Consultation dated 6/23/16, Received 9/26/16
  38. Existing conditions survey with tree locations documented
  39. Memo from applicant received 9/28/16
  40. Transportation Impact Analysis dated 9/28/16, received 9/29/16
- B. Zoning Map
- C. Plans & Drawings:
1. Site Plan
  2. Landscape Plan
  3. Grading Plan
  4. Sewer, Storm & Water (Utility) Plan
  5. Demolition and Erosion Control Plan
  6. Driveway Plan
  7. Existing Conditions Plan
- D. Notification information:
1. Request for response
  2. Posting letter sent to applicant dated 7/29/16
  3. Notice to be posted
  4. Posting letter sent to applicant dated 9/7/16
  5. Notice to be posted
  6. Applicants statement certifying posting
  7. Mailing list
  8. 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 Bureau of Development Services
  6. Bureau of Parks, Forestry Division
  7. Life Safety Plans Examiner
- F. Letters: (None Receive)
- G. Other:
1. Original LUR Application
  2. Incomplete Letter dated 9/18/15
  3. Land Use Hearing reschedule request dated 8/12/16
  4. Wetland Land Use Notification from Oregon Department of State lands dated 7/22/16
  5. Memo to applicant addressing approvability issues dated 8/18/16
  6. E-mail to applicant on 8/18/16
  7. Tri-Met schedule, bus line #58
  8. E-mail dated 9/20/16 from Water Bureau documenting fire flow
  9. Potential design solutions presented to applicant by planning staff to meet minimum tree preservation standards.

10. E-mail correspondence to applicant from Planning staff (between 1/29/16-9/26/16) addressing approvability and timeline issues
- H. Hearings Office Submittals

**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).**

















