



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** October 24, 2016  
**To:** Interested Person  
**From:** Brandon Rogers, Land Use Services  
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## **NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 16-195824 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Robert Hawthorne/PDX Living, LLC  
6535 SE 21st Ave  
Portland, OR 97202

**Owners:** Julie D Gedrose, Jack P Vollert  
5505 SE 47th Ave  
Portland, OR 97206

**Site Address:** 5505 SE 47TH AVE

**Legal Description:** BLOCK 99 LOT 1, WOODSTOCK  
**Tax Account No.:** R928906620  
**State ID No.:** 1S2E18CA 12700  
**Quarter Section:** 3635  
**Neighborhood:** Woodstock, contact Terry Griffiths at 503-771-0011.  
**Business District:** Woodstock Community Business Association, contact Ann Sanderson at [anndango@gmail.com](mailto:anndango@gmail.com).  
**District Coalition:** Southeast Uplift, contact Leah Fisher at 503-232-0010.  
**Zoning:** Residential 5,000 (R5)  
**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:** The applicant proposes a two parcel land division of a 10,000 square foot site to create two parcels for single dwelling development. The existing house and detached garage are proposed to remain at the site. The site contains trees subject to the Tree Preservation standards of Section 33.630. Water and sanitary sewer services are proposed to be provided by existing utilities located in SE 47<sup>th</sup> Avenue. Access will be provided from SE Harold Street and SE 47<sup>th</sup> Avenue.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

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

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

## FACTS

**Site and Vicinity:** The corner-lot site is characterized by generally level topography and is developed with a single family residence and detached garage. Woodstock Park and Woodstock Elementary School are located directly across SE 47<sup>th</sup> Avenue from the site. The surrounding neighborhood is characterized by single dwelling development, with commercial uses located along SE Woodstock Blvd approximately 1,100 feet south of the site. There are three Heritage Trees located in the surrounding neighborhood, the closest of which is located at SE 44<sup>th</sup> Ave between SE Ellis and SE Harold Street approximately 700 feet west of the site.

**Infrastructure:** The site has 100 feet of frontage of both SE 47<sup>th</sup> Avenue and SE Harold Street. A driveway connects the site to SE Harold Street. The City’s Transportation System Plan (TSP) classifies SE Harold and SE 47<sup>th</sup> as Local Service Streets for all modes. SE 47<sup>th</sup> Avenue is improved with a 28-ft wide paved roadway and a 9-5-2 sidewalk corridor within a 60-ft wide right-of-way (ROW). SE Harold is a 53-ft wide ROW that is improved with approximately 12-ft of center paving and gravel shoulder, without curbs and sidewalks. Tri-Met provides transit service approximately 700 feet north of the site at SE Steele Street. The site is not Transit Exempt.

- **Water Service** – There is an existing 8-inch water main located in SE 47<sup>th</sup> Avenue. The existing house is served by a 3/4-inch metered service from this main. No water utilities are located within SE Harold Street.
- **Sanitary Service** - There is an existing 12-inch VSP public combination sewer line in SE 47<sup>th</sup> Avenue and a 36-inch public combination sewer line in SE Harold Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** Residential 5,000 (R5). The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

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

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **August 8, 2016**. Two written responses have been received from the Woodstock Neighborhood Association. No responses were received from notified property owners.

**Staff Response:** The Woodstock Neighborhood Association expresses interest in tree preservation. Subsequent to their initial response, the Woodstock Neighborhood worked with the applicant and revised their response to reflect acceptance of the removal of a 30-inch Norway spruce tree. Refer to Zoning Code Approval Criteria Section B, below for an analysis of the Tree Preservation Approval Criterion.

## ZONING CODE APPROVAL CRITERIA

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

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets	No public dead-end streets or pedestrian connections exist that must be extended onto the

	and pedestrian connections	site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 10,000 square feet. The maximum density is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. Based on this information, the site has a minimum and a maximum density of two units. Because the minimum required density is equal to the maximum allowed density, the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to one. The applicant is proposing two single dwelling parcels. Therefore, the density standards are met. The required and proposed lot dimensions are shown in the following table:

	<b>Min. Lot Area</b> (square feet)	<b>Max. Lot Area</b> (square feet)	<b>Min. Lot Width*</b> (feet)	<b>Min. Depth</b> (feet)	<b>Min. Front Lot Line</b> (feet)
<b>R5 Zone</b>	3,000	8,500	36	50	30
Parcel 1	5,000		50	100	50
Parcel 2	5,000		50	100	50

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

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

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

**Findings:** The regulations of Chapter 33.630 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.

The highest priorities for tree preservation are healthy, native, non-nuisance species measuring 20 or more inches in diameter and tree groves. Additional considerations include trees that: are slower growing native species, buffer natural resources, prevent erosion and slope destabilization and limit impacts on adjacent sites. Trees that are exempt from the requirements of this chapter include unhealthy trees, nuisance species, trees located within

10 feet of a building to remain on the site, trees located within an existing right-of-way, or trees located within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) showing the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.3) that identifies each tree, evaluates 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. Based on this information, two trees (an 11 inch plum and a 30-inch spruce), which provide a total of 41 inches of tree diameter, are subject to the preservation requirements of Title 11.

Option 1 of the Minimum Tree Preservation Standards of Section 33.630.100 requires preservation of all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site. Applied to the site, Option 1 would require preservation of tree T5 (30-inch Norway spruce) and would result in preservation of a tree preservation sum of 30 inches. However, the applicant proposes instead to preserve Tree T1, an 11-inch plum tree through the Performance Path of tree preservation and to pay into the City's Tree Planting and Preservation Fund as mitigation for removal of tree T5. The applicant's arborist report states that the Tree T5 is not suitable for preservation given the impact of development.

Based on the location of tree T5, the configuration of the property and the scale of the development proposed, the applicant's arborist report (Exhibit A.3) states that preservation of tree T5 is not practicable. The arborist report includes an analysis of the minimum tree preservation requirements required under section 11.60.030 *Tree Protection Specifications* of Title 11. The report illustrates that even when the 30-foot RPZ is reduced by half, to 15-feet, the specific development proposed and the intensity of development expected in the R5 zone prevent Tree T5 from being successfully preserved at the site.

The report states that the house proposed on Parcel 2 would be located within the root protection zone (RPZ) of tree T5. The applicant explored alternative development layouts for the site considering the required minimum RPZ for tree T5 and concluded that preservation of the tree is not practicable because it would limit the width of the proposed house to approximately 17 feet wide, which would be unmarketable (Exhibit A.3, page 6). Additionally, the arborist states that required removal of tree roots for development would increase the likelihood of wind throw of Tree T5 towards the existing house on Parcel 1.

This mitigation will be consistent with the purpose of the tree preservation regulations, since it will provide for the planting of other trees that will contribute to the general beauty and natural heritage of the City. With the condition that payment to the City Tree Planting and Preservation Fund equivalent to 19 inches occur prior to final plat approval, tree removal will be adequately mitigated.

In order to ensure that future owners of the parcels 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 Parcel 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.3).

With the implementation of the noted conditions, the approval criteria will be met.

At the time of development, the individual parcels must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The tree to be retained on Parcel 2 as part of this review may be applied toward meeting those Title 11 requirements.

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

**Findings:**

***Clearing and Grading***

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, the tree required to be preserved will be protected at the time of development. This criterion is met.

**I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.**

**Findings:** The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

All of the proposed lots are on the west side of a north-south oriented street. In order to meet the solar access requirements, Parcel 2 must be wider than Parcel 1. With a condition of approval requiring Parcel 2 to be wider than Parcel 1 on the final plat, this criterion can be met.

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

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

The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: 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. To address the approval criteria, the applicant submitted a written narrative (Exhibit A.2).

The applicant proposes to divide the subject site into two parcels with the existing house and detached garage to remain on Parcel 1. Accordingly, the proposed project will result in a net increase of one new single-family home. Based upon trip generation estimates obtained from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th Edition, the project is projected to generate one additional trip during both the morning and evening peak hours (10 additional trips in total each day). The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.

As proposed, on-site parking will be provided on Parcel 2 to accommodate at least two vehicles and the existing home will continue to accommodate on-site parking within the existing garage which is accessed via SE Harold Street. The surrounding area has an established residential development pattern that includes single-family homes on lots that accommodate one or, in many cases, multiple on-site parking spaces thereby reducing the demand for on-street parking in this area. Given the on-site parking opportunities that will be provided with the new development, on-street parking in the area will not be adversely impacted by the proposed new dwelling unit.

There are existing transit facilities in the vicinity and the nearest bus stop is located approximately 687-ft from the site at SE Steel & SE 47th (TriMet #10). The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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

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

<b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.
The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.
<b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.
The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods for Parcels 1 and 2: Stormwater will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Parcels 1 and 2 have sufficient area for stormwater facilities that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywells. Prior to approval of the Final Plat, a drywell must be constructed for stormwater management for Parcel 1 (with the existing house). With a condition of approval requiring construction of a drywell for Parcel 1 to occur prior to approval of the Final Plat, this standard can be verified.
<b>33.654.110.B.1 Through streets and pedestrian connections</b>
Generally, through streets should be provided no greater than 530 feet apart and pedestrian connections should be provided no greater than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.
The block on which the subject property is located is approximately 200 feet wide by 200 feet long, which meets the noted spacing requirements. In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For the reasons described above, this criterion is met.
<b>33.654.120.B &amp; C Width &amp; elements of the right-of-way</b> – See Exhibit E.2 for bureau comment
In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.
While the frontage on SE 47th doesn't meet the specified configuration of an 11-ft wide corridor as the sidewalk is 5-ft wide where 6-ft is recommended, the site does qualify for an exemption under Administrative Rule 1.22 "Infill Development on Streets with an Existing Sidewalk Corridor". Accordingly, the existing sidewalk corridor configuration on SE 47th will be accepted as the standard sidewalk configuration for the block lengths. No right of way improvements will be required in relation to the proposed partition request. A Minor

Improvement Permit associated with the Building Permit for the new house will be required for the new curb cut/driveway.

There is an existing speed bump located within SE 47th that will be in conflict with the future driveway for Parcel 2. Consistent with PBOT standards, the edge of the speed bump must be located at least 5-ft from the throat of the driveway. The applicant is responsible for the cost associated with having the speed bump relocated by PBOT's Maintenance Operations Section. Payment will be required as a condition of the Building Permit for development on Parcel 2, if the driveway is not consistent with PBOT standards.

For an unimproved Local Service Street, abutting an R5 zoned site, the City's public street standards document requires an ultimate ROW width of 56-ft to accommodate a 26-ft wide paved roadway and two 15-ft wide sidewalk corridors consisting of a 0.5-ft curb, 8-ft public stormwater management facility, 6-ft sidewalk, and a 0.5-ft frontage zone. A 1.5 foot right of way dedication along SE Harold Street is necessary to accommodate these improvements.

On April 13, 2016, City Council created the Local Transportation Infrastructure Charge (LTIC) to fund improvements on unimproved streets via approval of Ordinance No. 187681. The purpose of the LTIC is to provide applicants with an alternative to constructing street improvements along their frontage provided that the site meets specific criteria. SE Harold, a Local Service Street lacking curbs or sidewalks along the site's frontage, qualifies for the LTIC. Accordingly, as a condition of Final Plat approval the applicant will be assessed the LTIC at a rate of \$600.00 per linear foot on SE Harold. With payment of the LTIC, standard frontage improvements will not be required. The applicant will be required to execute street and stormwater waivers of remonstrance and dedication the 1.5-ft of property necessary to construct standard improvements in the future.

This criterion is met, with the condition that the required right-of-way dedication is shown on the Final Plat, that the required waivers are signed prior to final plat approval and that the applicable LTIC fee is paid prior to approval of the final plat.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

## **DEVELOPMENT STANDARDS**

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

### **Future Development**

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

- The Title 11 tree density standards will require that trees be planted at the time of building permit. Based on the size of Parcel 2, (5,000 square feet), 2,000 square feet of tree area (Table 50-2, Title 11) will be required to be planted on Parcel 2, depending on the type of trees chosen by the applicant.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a



request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 11 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- **Title 11 Tree Density Standard** – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, and associated tree removal, Parcel 1 with existing house will no longer meet this standard. Parcel 1 is 5,000 square feet in area, therefore 2,000 square feet of tree are required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

## **OTHER TECHNICAL REQUIREMENTS**

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

<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 must meet the requirements of the Fire Bureau in regards to adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal

to this requirement and addressing. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a two-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree mitigation, stormwater management for the existing house on Parcel 1, Title 11 Tree Density planting, LTIC payment and street dedication.

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a two-parcel partition that will result in two parcels for single dwelling development as illustrated with Exhibit C.1, subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for review and approval by the Land Use Services section of BDS. The plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

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

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Harold Street. The required right-of-way dedication must be shown on the final plat.
2. 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.6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Tree Preservation Land Use Conditions has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."
3. In order to meet the solar access requirements, Parcel 2 must be wider than Parcel 1.

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

### Streets

1. The applicant shall complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer and pay the Local Transportation Infrastructure Charge (LTIC). Waiver forms and instructions will be provided to the applicant during the final plat review process.

### Utilities

2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

**Existing Development**

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the cesspool on the site.
4. The applicant must meet the tree density standard of 11.50.050 on Parcel 1 with the existing house by either planting trees on the lot or making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.
5. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

**Required Legal Documents**

6. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

**Other requirements**

7. The applicant must pay into the City Tree Preservation and Planting Fund the amount equivalent to 19 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.3). Specifically, tree T1 is required to be preserved, with the root protection zones indicated on Exhibit C.1. 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.
2. The applicant must meet the Fire Bureau requirements for addressing.

**Staff Planner: Brandon Rogers**

**Decision rendered by:**  **on October 20, 2016**  
By authority of the Director of the Bureau of Development Services

**Decision mailed October 24, 2016**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed.

Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on June 28, 2016, and was determined to be complete on August 3, 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 June 28, 2016.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: December 1, 2016.**

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

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

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

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

**This decision, and any conditions associated with it, is final.** It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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

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

**a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original Submittal
  - 2. Applicant's Response to Incomplete Letter
  - 3. Applicant's Arborist Report
  - 4. Simplified Stormwater Approach Form
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Land Division Plan, Tree Inventory and Tree Preservation Plan (attached)
  - 2. Existing Conditions Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence:
  - 1. Woodstock Neighborhood Association
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. RFC Response Email to Applicant

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



# ZONING

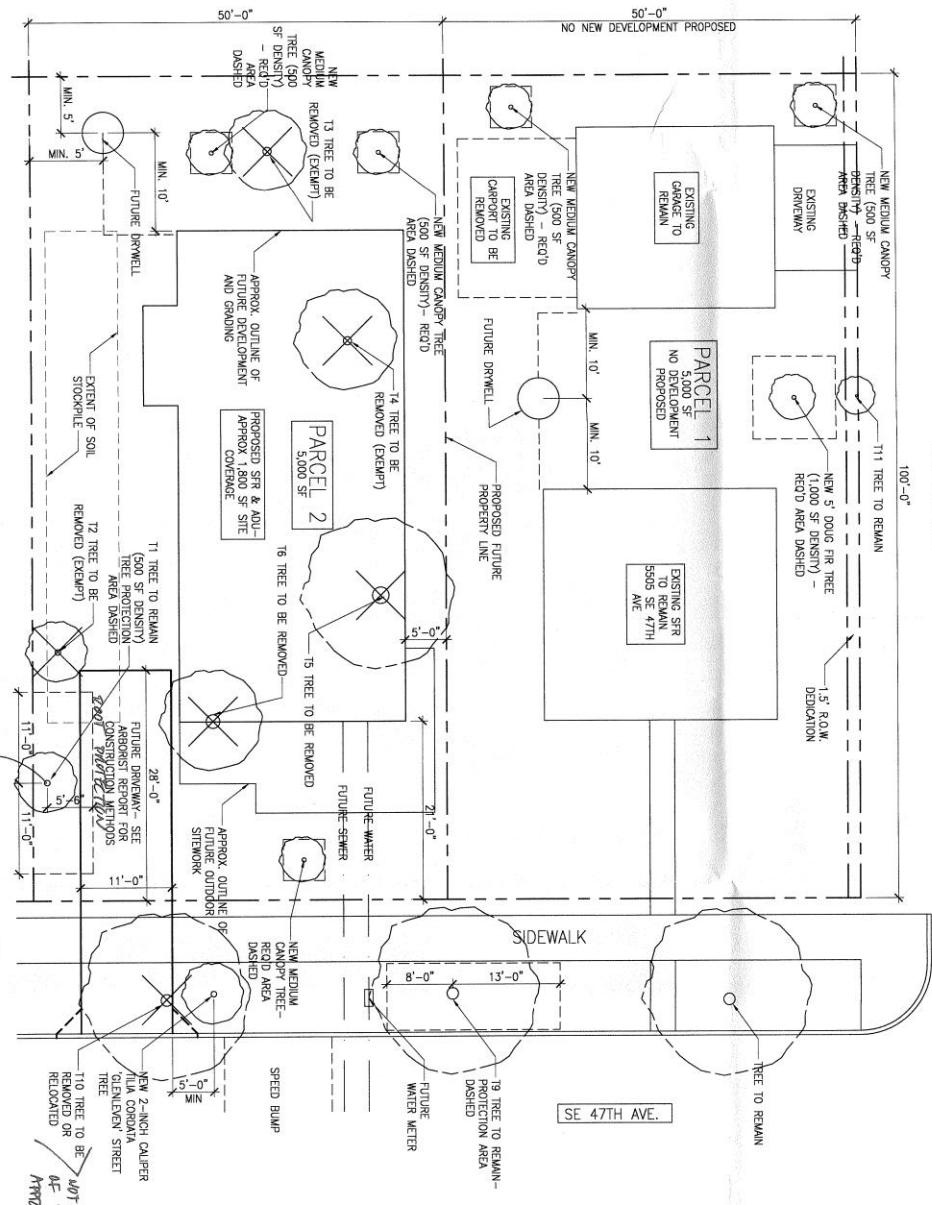


- Site
- Historic Landmark

File No. LU 16-195824 LDP  
 1/4 Section 3635  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E18CA 12700  
 Exhibit B (Jun 29, 2016)

1 PROPOSED IMPROVEMENT, UTILITY, AND TREE PLAN

1" = 10'



NOT TO BE PAVED



SEE HAROLD ST.  
PARTIALLY IMPROVED

SE 47TH AVE.

REVISED 9/22/16 L4 16-195824-LDP

CASE NO. LU-195824-LDP  
EXHIBIT C-1

SHEET TITLE: PROPOSED IMPROVEMENT, UTILITY, AND TREE PLAN  
SHEET NO.: C  
DATE: 21 SEPTEMBER 2016

101

LAND DIVISION LU-195824-LDP

PROJECT: 5505 SE 47TH AVE  
PORTLAND, OR 97206

CASE FILE: