



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

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Date: October 12, 2018
To: Interested Person
From: Lois Jennings, 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 18-197348 LDP

GENERAL INFORMATION

Applicant & Representative: Charles Wiley
 2825 NE 52nd Ave. | Portland, OR 97213
 503-284-2019 | towileys@q.com

Owners: Marilyn Rea & Sheryl A. Wiley *Marilyn Rea (Mailing Address)*
 2825 NE 52nd Avenue *6897 SW Greenwich Dr.*
 Portland, OR 97213 *Portland OR 97225*

Site Address: 5018 NE SKIDMORE ST

Legal Description: E 120' OF W 330' OF BLOCK 6 EXC N 230', IRVINGTON ACREAGE TR
Tax Account No.: R420703160
State ID No.: 1N2E19CA 04200
Quarter Section: 2635

Neighborhood: Cully, contact David Sweet at 503-493-9434.
Business District: None
District Coalition: Central Northeast Neighbors, contact Sandra Lefrancois at 503- 823-2780.

Plan District: None
Zoning: R5- Single-Dwelling Residential -1 unit per 5,000 s.f. with an "h"- Aircraft Landing Zone overlay

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

Proposal: The applicant is proposing a two (2) lot partition on the site. Parcel 1 will be 4,581 s.f in area and Parcel 2 will be 6,867 s.f. in area. The existing house and detached garage will remain on future Parcel 2. Future development on Parcel 1 will be for a detached single-

family residence. The applicant is proposing to preserve a 17-inch Apple tree (#6) in order to meet the applicable Tree Preservation requirements. At this time the owner is showing all trees being preserved on the site and protection of the Douglas Fir tree on the adjacent site to the east. The applicant's preliminary plan shows how services (sanitary, stormwater and water) are being provided to each lot.

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 (2 lots). Therefore, this land division is considered a partition.

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

FACTS

Site and Vicinity: The site is a relatively flat interior lot situated midblock between NE 49th Avenue and NE 52nd Avenue on the south side of NE Skidmore Street. The site contains an existing single level house and a detached garage with attached covered areas on east and west side of the it. Rose bushes line the fence along the frontage and a single driveway accesses the site. The southwest portion of the site appears to be used as a garden area with a grape arbor and fruit tree. The neighboring property to the east contains a Douglas Fir tree that is situated near the common property line.

A church is on the neighboring property to the west of the site. Otherwise, most of the surrounding properties are developed with single-story ranch style homes, with a few 1 ½ or 2 story homes mixed in. The zoning directly to the north, south, west and east of the site is R5 and then east of NE 52nd Avenue the zoning changes to R7-single family residential zone. Rose City Cemetery is approximately 710 ft. to the south of the site with OS-Open Space zoning. In this area, commercial businesses appear to be present at the intersection of major streets, such as NE Prescott & NE 42nd Avenue, or along frontage of NE Cully Boulevard, and NE Fremont Street where commercial zoning (CM1/CM2) is designated.

Infrastructure:

- **Streets** – The site has approximately 120 ft. of frontage on NE Skidmore Street. At this location, NE Skidmore Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 1,975 feet from the site at NE Fremont Street via Bus #24, or #71 from NE Cully Boulevard. Tri-Met also provides transit service along NE 42nd Avenue via Bus #75.

At this location NE Skidmore Street is improved with a 28-ft. paved roadway within a 50-ft. right-of-way with parking on both sides. Along the 120 ft. wide site frontage the pedestrian corridor includes a 4-foot wide planter area, curb, 5-foot sidewalk and a 2-foot wide buffer at the back of the sidewalk (4-5-2 configuration).

- **Water Service** – There is an existing 6-inch CI water main in NE Skidmore Street. Static pressure is estimated at 71-89 psi. The existing house is served by an existing service from this main.

- **Fire Hydrant Service** – The nearest fire hydrant is along this site’s frontage on NE Skidmore Street. The hydrant flow for this location is 2100 gpm with a 20-psi residual.
- **Sanitary Service** - There is an existing 8-inch VSP public sanitary sewer line in NE Skidmore Street (BES as-built #4521).
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The applicant is proposing to manage stormwater runoff through a drywell, which is discussed later in this report.

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

The Aircraft Landing (“h”) overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. Development of this site will be subject to the R5 height limit.

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 31, 2018**. 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.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	The proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.

L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the R5 zone. Based on the applicant's survey, the site area is 11,448 square feet. The maximum density in the R5 zone 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.

The site has a maximum density of 2 units and a minimum required density of 2 units. If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to one (1) unit.

The applicant is proposing two (2) single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Parcel 1	4,581		48	95.4	48
Parcel 2	6,867		72	95.3	72

* 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 table and findings above show that 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.

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.

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

To identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.4) 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.

Based on this information only one tree, a 17-inch apple tree, identified as #6 on Parcel 2, is subject to the preservation requirements of this chapter.

This 17-inch apple tree is on Parcel 2 with the existing house, and per the arborist report is in fair condition, and a non-nuisance species. No new development is being proposed on Parcel 2. The arborist tree preservation plan (Exhibit A.4) shows a root protection meeting the prescriptive path. The proposed root protection zones for the tree to be retained will allow for the type of development anticipated in the R5 zone.

All the trees are less than 20 inches in diameter and the applicant proposes to retain the only tree subject to tree preservation, a 17-inch apple tree, which meets Option #4. Option #4 requires at least 35 percent of the total tree diameter on the site to be preserved where all the trees are less than 20 inches.

In addition, the applicant's arborist report (Exhibit A.4) has also identified a 13-inch Douglas Fir tree (#7) on the adjacent site to the east of the shared property line. In order to protect the off-site tree from construction impacts, the arborist recommends the prescriptive path (13-ft. RPZ) for preserving the 13-caliber inch Douglas Fir Tree, which is reflected on the tree preservation plan (Exhibit C.1).

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of the Parcel 2 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.4).

This tree preservation standard and approval criteria are met.

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

Findings:

Clearing and Grading

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. No significant clearing or grading will be required on the site to make the new lots developable. Tree protection will be provided in the event of future development on Parcel 2. Based on these factors, this criterion is met.

Land Suitability

The site is currently in residential use and the existing single-family residence and garage will remain in place with alterations proposed to the garage. There is no record of any other use in the past.

Site development Section of BDS review this land division proposal and notes the following regarding land suitability (Exhibit E.5):

Records show the original home was constructed in 1954. City sewer was connected in 1994. In the interim, between 1945 and 1994, the residence was serviced by at least two cesspools. Historical plumbing records indicate that the cesspools are located in the front yard of the existing home. The cesspools must be decommissioned under a Septic Evaluation permit prior to final plat approval.

With the recommended condition noted above, this criterion will be met.

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

Findings: The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.020.B.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

The applicant provided a written narrative (Exhibit A.5) addressing the transportation approval criteria above. The applicant proposes to create a new 48-ft wide lot west of the existing home and detached garage, which are to remain. The proposed partition is projected to generate approximately two additional vehicle trips per workday, or approximately ten trips per week. The applicant's narrative indicates the surrounding area's

street capacity is sufficient to accommodate the additional trips, and the addition of one single-family home is consistent with the surrounding zone. Vehicle access for the proposed home will be via a new driveway, while preserving an on-street parking space adjacent to the site. The existing sidewalk corridor and street provide appropriate, safe transportation facilities to accommodate multi-modal options while reducing impacts to the neighborhood. There are four TriMet bus lines accessible within a mile of the site, and convenient access to numerous bicycling routes throughout the city. The smaller number of trips added onto the transportation system will have minimal impact to immediate and adjacent neighborhood, therefore will not adversely impact the operations of the area intersections. The transportation system can support the proposed development in addition to the existing uses in the area. The proposed development will not negatively impact transit service or safety for any mode.

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:

<p>33.651 Water Service standard – See Exhibit E.3 and E.4 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. Future development on Parcel 1 may receive service from the 6-inch main in N.E. Skidmore Street.</p> <p>The Fire Bureau has reviewed and verified the Fire Flow information provided (Exhibit A.8) from the nearest fire hydrant has adequate capacity to serve the proposed development.</p> <p>The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report.</p> <ul style="list-style-type: none"> • Existing Development: According to City records, the existing structure on proposed Parcel 2 is currently connected to the sanitary sewer via a lateral located approximately 189 feet from the manhole in NE Skidmore Street (AAU640). This places the lateral within the frontage of Parcel 2. • Proposed development on Parcel 1 will be served by a new connection to the sanitary sewer in NE Skidmore Street within its frontage. <p>BES finds the applicant’s proposed sanitary sewer service acceptable for reviewing the preliminary land division application against the sanitary sewer disposal approval criterion.</p> <p>The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods (Exhibit C.1):</p> <ul style="list-style-type: none"> • Parcel 1: Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. • Parcel 2 (the lot with the existing house): The existing house and detached garage has downspouts that drain onto the ground.

Bureau of Environmental Services (BES) Staff reviewed the project's stormwater report from August 4, 2018 (Exhibit A.9) that describes the Simplified Approach Infiltration test results of 12.5 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via a drywell that can meet the setbacks as established in the facility design standards and Table 2-1 of the SWMM.

It is unclear where the stormwater from the west side of the existing garage on Parcel 2 currently discharges. Prior to final plat approval, the applicant will be required to retrofit the stormwater facilities for the existing garage on Parcel 2 according to SWMM standards and will not be impacted by the proposed lot line, as described below:

- a. If necessary based on their locations, the applicant will be required to retrofit the stormwater facilities for the existing garage on Parcel 2 according to SWMM standards, with all required permits finalized, prior to final plat approval.

Prior to final plat approval the applicant must submit a revised supplemental plan that depicts how stormwater from the westside of the existing garage on Parcel 2 will be managed. If stormwater crosses the proposed new property line, or if the minimum setbacks requirements are not met, the applicant must modify the stormwater disposal system serving the west side of the existing garage on Parcel 2 according to BES and SWMM requirements and obtain finalized permits as necessary prior to final plat approval.

With the recommended conditions of approval, BES staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the preliminary land division application against the stormwater management standard and approval criterion.

This criterion is met.

33.654.110.B.1 Through streets and pedestrian connections – See Exhibit E.2 for bureau comment

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.

Portland Bureau of Transportation (PBOT) notes the following:

The parent property is a mid-block parcel on a relatively standard length residential block, with NE 49th Avenue approximately 230 feet to the west. The adjacent development pattern to the south does not appear to be further dividable, therefore the probability of a pedestrian connection is not feasible at this location. Northeast Skidmore is an improved street with existing pedestrian corridors within an established neighborhood, within an established neighborhood block.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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

In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.

Portland Bureau of Transportation states the following: The subject property is mid-block parcel located between NE 49th and 52nd Avenues. At this location, the City's Transportation System Plan (TSP) classifies NE Skidmore as a Local Service street for all modes.

Existing Conditions: At this location, NE Skidmore is improved with a 28-ft. paved roadway within a 50-ft. right-of-way (ROW) and has an existing pedestrian corridor in an 4-5-2

configuration.

ROW Improvement Requirements: In accordance with the Portland Pedestrian Design Guide, Local Service Streets in an R5 zone requires an 11-ft. sidewalk corridor, consisting of a 0.5 ft. curb, 4-ft. wide furnishing zone, 6-ft. wide sidewalk, and a 0.5 ft. frontage zone. The existing pedestrian corridor does not meet the above standards due to a smaller finishing zone, 5-ft. sidewalk rather than 6-ft., and a larger frontage zone than the standard. However, as an internal Public Works Alternative Review has been approved (18-205312 PW) which will allow the subject properties to remain with current pedestrian corridor configuration. Therefore, reconstruction of the pedestrian corridor will not be required.

Portland Bureau of Transportation has indicated that the existing street is improved in a manner that is sufficient to serve the expected users.

This criterion is met.

33.654.120.H- Standards for Street Trees – see Exhibit E.7 for Urban Forestry comments

The City Forester reviewed this land division proposal for its impact on existing trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Tree Code and provided the following comments:

There are two existing Cherry Plum street trees currently along this site's frontage of 120 feet. The existing cherry plum trees must be retained and protected throughout all phases of development.

The applicant provided no conceptual street tree planting plan. One street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum of 1.5 caliper inches and be a species chosen from an approved street tree list. Trees will be required to be planted through building permit or public works permit. The tree planting must be shown on permit plans.

A fee is required for loss of street tree planting locations. Each street tree requires 25 linear feet for planting.

Prior to lot division there is room for four (4) street trees to be planted along NE Skidmore Street. After the proposed lot division there will be room for three (3) street trees. Therefore, a loss of potential location of one street tree along NE Skidmore Street frontage will be required due to loss one available planting space. A fee for 1.5-inches (currently is \$325 an inch, which is $325 \times 1.5 = \$487.50$) will be required for the permanent loss of one street tree planting location because of this land division.

With the condition that the applicant must pay into the City Tree Preservation and Planting Fund for the loss of one street tree, amount equivalent to 1.5 inches, prior to final plat approval, this criterion is met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent rights-of-way 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. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those of Title 33 can be met, or have

received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several 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 and detached garage with attached covered area will be a minimum of 5 feet from the new property line. The applicant is proposing to remove the covered area (awning) area on the west side of the garage to meet the minimum 5-ft. side setback. The alteration of the existing garage will be required to be completed prior to final plat approval. The applicant must provide documentation prior to plat approval that all required permits receive final inspection for the removal of the covered area/awning attached to the garage. To ensure this standard will be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building(s) relative to the adjacent new lot lines meeting the setback standard.
- **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, Parcel 2 with existing house will no longer meet this standard. Parcel 2 is 6,867 square feet in lot area, therefore 2,747 square feet of tree canopy area is required. The existing 17-inch Apple tree counts as two medium trees (1,000 s.f.), therefore 1,747 s.f. of tree canopy area is required in addition to the retaining the apple tree to be in compliance with the tree density standard. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 2 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.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The Life Safety Section of BDS reviewed this proposal for compliance with the Building Code. A building permit is required to remove the covered area/awning on the west side of the detached garage, so the structure does not cross over the future common lot line between Parcel 1 and Parcel 2. Prior to approval of the final plat, the applicant must obtain and final a building permit for altering the detached garage to be in compliance with building code (R105.1). With this as a condition, Life Safety Plan Review Section of BDS has no objections to this land division proposal (Exhibit E.7).
- The applicant at the time of development must meet the requirements of the Fire Bureau regarding addressing, aerial and fire apparatus access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1 (Exhibit E.4).

CONCLUSIONS

The applicant has proposed a two-lot 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 include modifying the stormwater system for the detached garage to meet BES requirements and altering the detached garage to meet minimum side setback to the new property line. The alteration to remove the awning/covered area from the detached garage requires a permit. The 17-inch apple tree on Parcel 2 with the existing house is being retained to meet the tree preservation standard. Tree density for Parcel 2 will need to be met. Urban Forestry notes there is a loss of available planting space for one street tree along NE Skidmore Street due to this land division lot layout, so payment to the tree fund is required. Site Development Section of BDS requires the existing cesspools to be decommissioned.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel minor partition was based on Exhibits C.1 and C2 and information provided by the applicant and service bureaus. The Approval of a Preliminary Plan for two parcels will result in single dwelling standard lots as illustrated with Exhibit C.1 subject to the following conditions:

- A. Supplemental Plan.** Two copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review and Bureau of Environmental Services(BES) review and approval. That plan must portray how the conditions of

approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application in association to the new lot lines;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- BES requires documentation that the stormwater management facilities for the existing detached garage on Parcel 2 meets SWMM and plumbing code setback requirements.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.4 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:

Existing Development

1. The applicant must obtain a finalized building permit for modifications to the existing detached garage that will remain on proposed Parcel 2 to comply with building code requirements to the satisfaction of the Life Safety Section of BDS.

The plans will also show the garage has been modified to demonstrate compliance with the standards listed below in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.1 of LU 18-197348 LDP*

- 33.110.220 (Setbacks--specifically, the permit must show removal of sufficient portions of the attached garage to meet the side setback requirement of 5 feet in the R5 zone);
2. The applicant must meet the requirements of BES for the stormwater systems on the existing detached garage to remain on Parcel 2. 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.
 3. The applicant must meet the tree density standard of 11.50.050 on Parcel 2 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.

Required Legal Documents

4. 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

5. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent

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.

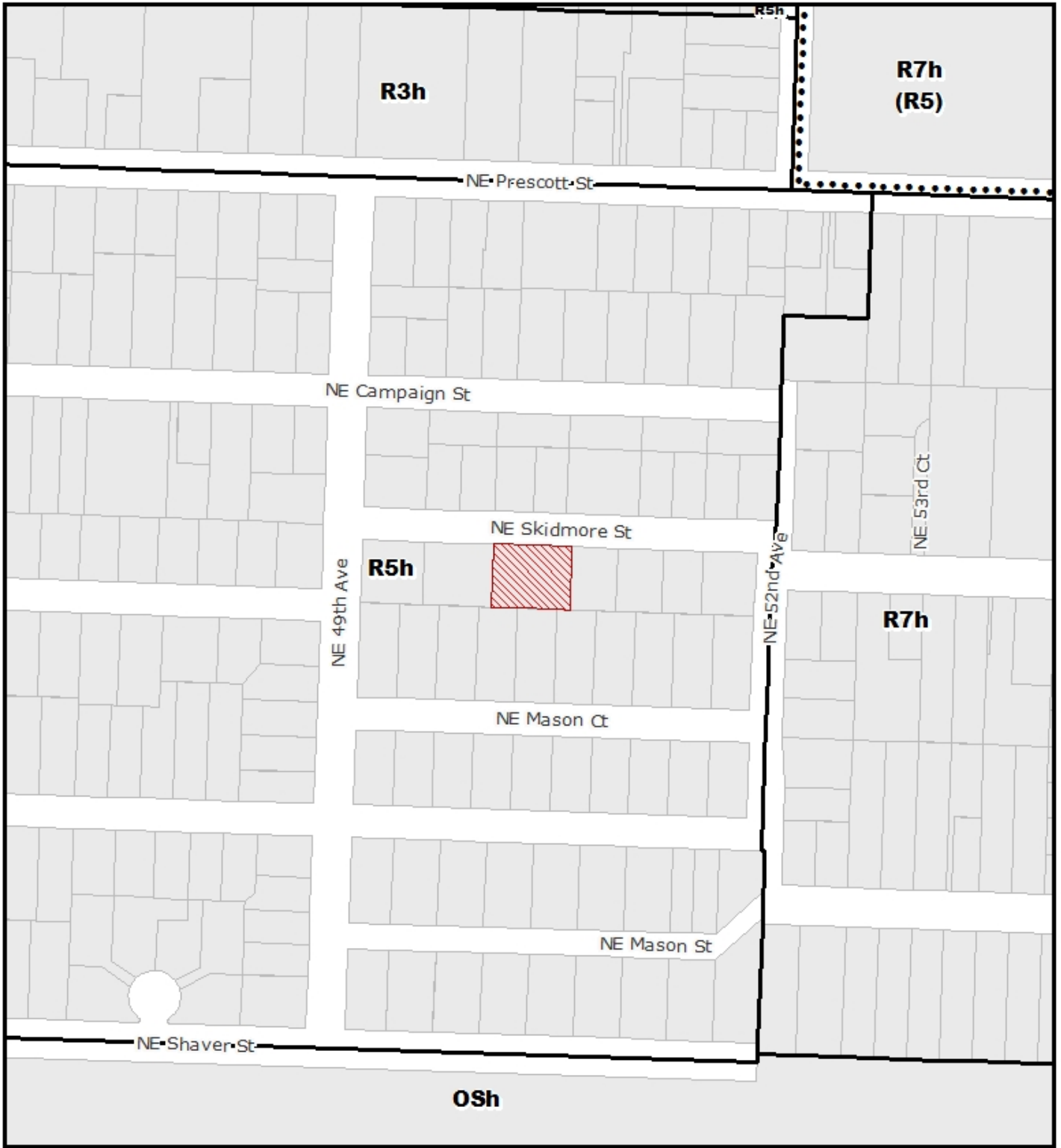
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Applicant's narrative addressing land division approval criteria
 - 2. Existing Conditions plan submitted June 3, 2018
 - 3. Proposed Preliminary plan submitted June 3, 2018
 - 4. Arborist Report by Teragan & Associates, Inc
 - 5. August 29, 2018 applicant's response to incomplete letter
 - 6. August 29, 2018 submitted Existing Conditions site plan
 - 7. August 29, 2018 submitted preliminary site, proposed improvement, utility and tree preservation plan
 - 8. Fire Flow Information
 - 9. Stormwater Simplified Approach Form
 - 10. Deed information
 - 11. Public Works Alternative Review #18-205312 PW
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary land division, proposed improvement, utility and tree preservation site Plan (attached)
 - 2. Existing Conditions Site 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
 - 4a. Revised September 13, 2018 memo from Fire Bureau
 - 5. Site Development Review Section of BDS
 - 5a. October 4, 2018 Revised Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement
 - 3. Incomplete Letter
 - 4. E-mail communication with applicant
 - 5. July 30, 2018 Memo to applicant regarding Tree Density
 - 6. Pictures

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 
NORTH

 Site

File No.	LU 18-197348 LDP
1/4 Section	2635
Scale	1 inch = 200 feet
State ID	1N2E19CA 4200
Exhibit	B Jul 09, 2018

Exhibit C.1

