



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

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**Date:** January 9, 2019  
**To:** Interested Person  
**From:** William Piro, Land Use Services  
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**NOTICE OF A TYPE II<sub>x</sub> 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 18-100488 LDP**

**GENERAL INFORMATION**

**Applicant:** Nathan Arnold | Faster Permits  
 2000 SW 1st Ave., Suite 420 | Portland OR, 97201  
 (503) 438-8113 | [nathan@fasterpermits.com](mailto:nathan@fasterpermits.com)

**Owner/Owner's Representative:** Shaun Olson | Turn Key Property LLC  
 5200 SW Meadows Rd. #150 | Lake Oswego OR, 97035  
 (503) 348-2974 | [shaun.olson@turnkeypropertyllc.com](mailto:shaun.olson@turnkeypropertyllc.com)

**Site Address:** 901 SW Maplecrest Ct.

**Legal Description:** LOT 13 E 0.083' OF LOT 14, MAPLECREST  
**Tax Account No.:** R533700470  
**State ID No.:** 1S1E28DB 02400  
**Quarter Section:** 4028

**Neighborhood:** Collins View, contact [contact@collinsview.org](mailto:contact@collinsview.org).  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.  
**Plan District:** None  
**Other Designations:** Unincorporated Multnomah County  
**Zoning:** Single Dwelling Residential 10,000 (R10)

**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

**PROPOSAL:**  
 The applicant is proposing to partition a 20,000-square foot property into 2 parcels. The existing house on Parcel 1, constructed in 1957, will remain. The existing attached carport will be demolished and reconstructed entirely on Parcel 1. The applicant is proposing a flag lot configuration as the retention of the existing house precludes a land division that would otherwise meet the minimum lot width standards of 50-feet in the R10 zone. The applicant has

elected to pay the Local Transportation Infrastructure Charge (LTIC) that applies to the frontage of the subject property. A 192-square foot flow-through planter is proposed to manage stormwater on Parcel 2. Overflow from the planter will travel via pipe to the roadside ditch along SW Maplecrest Ct. The existing house on Parcel 1 will treat a portion of its stormwater in a new 70-square foot flow through planter. Existing gutters directed towards downspouts will disperse the remaining stormwater.

Shared driveway access for Parcel 1 is proposed via a 12-foot wide access easement over the pole portion of Parcel 2. In addition, A 10-foot wide private access easement is proposed on Parcel 1 to provide additional area for vehicle access for Parcel 2. The existing home on Parcel 1 will continue to take water service from the main in SW Maplecrest Ct. and a new water line will be installed in the pole portion of Parcel 2 for the new house. The applicant has proposed to retain 6 native trees over 20-inches in diameter on the site to address the tree preservation requirements of Chapter 33.630.

This partition proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) two lots, where a portion of the lots, utilities, and services are proposed within a Potential Landslide Hazard Area (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:

- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

## FACTS

**Site and Vicinity:** The project site descends in elevation from east to west, with the low points near the North West and South West property corners. An existing two-story home constructed in 1957 is located on the southern portion of the site. There are a total of 13 trees on site ranging in size from 9-inches diameter at breast height (DBH) up to 36-inches DBH and are comprised of a variety of native and non-native deciduous and coniferous trees along with several fruit trees.

Immediately east of this site the zoning is Residential 5,000 (R5) zoning and properties are developed with one and two story single-family homes. Approximately 100-feet west of the site, along SW Maplecrest Ct. the zoning transitions to Residential 20,000 (R20). South of the subject property the zoning remains R10. North of the site the properties abutting the SW 6<sup>th</sup> Ave. cul-de-sac are in the Residential 7,000 zone.

**Infrastructure:**

- **Streets –**

The site has approximately 100-feet of frontage on SW Maplecrest Ct. There is currently one driveway entering the site that serves the existing house on the site. At this location, SW Maplecrest Ct. is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 1,355-feet from the site at SW Terwilliger Blvd. via Bus 38.

SW Maplecrest is improved with a paved roadway of approximately 20-feet within a 50-foot right-of-way. There is no sidewalk or curb on either side of the street.

- **Water Service –** There is an existing 8-inch water main in SW Maplecrest Ct. The existing house is served by a metered service from this main.

- **Sanitary Service** - There is an existing 8-inch CSP sanitary sewer line in SW Maplecrest Ct. (BES as-built #2995).
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. There is a public ditch/culvert system in SW Maplecrest Ct. that drains to a surface channel.

**Zoning:** The R10 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 is one (1) prior land use action for this site.

- **PR 17-280108 PLA:** Approval of a Property Line Adjustment to adjust the property line between Lot 13 and Lot 14 of the Maplecrest subdivision.

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

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **July 2, 2018**. Two written responses have been received from notified property owners in response to the proposal.

Email responses were received on July 8, 2018 and July 18, 2018 from Al Levi (Exhibit F.1 and F.2). The email correspondence to the Bureau of Development Services have been summarized below:

- Concerns regarding the soil pressure downslope on Al Levi’s property.
- Retaining wall on Mr. Levi’s property show signs of compromise.
- The proposed development will place additional soil pressure on said retaining wall.
- Topography of the rear yard must be considered further.
- The proposed ‘flow-through’ planter is scheduled on the opposite side of the proposed dwelling so will not offer anything to mitigate run off on the back side, which is down sloped
- Mr. Levi proposed the following recommendations: 1. Change the proposed set back of the dwelling to 20 feet from the South property, 2. Install a concrete retaining wall along the South property, and 3. Locate the proposed dwelling on Parcel 2 in a more central location.
- Mandate concrete retaining walls along the East and North to control soil pressure.

The applicant provided information pertaining to Mr. Levi’s concerns about slope stability and stormwater in the form of an Updated Geotechnical Memorandum for Landslide Hazard (dated April 5, 2018, Exhibit A.14) and a Stormwater Management Report (dated September 11, 2018, Exhibit A.20). The Bureau of Environmental Services has reviewed the provided stormwater information. Requirements for managing stormwater on site are addressed in detail later in this report. The comments below focus on the geotechnical and landslide issues. Where appropriate, Staff has provided additional responses.

1. Updated Geotechnical Memorandum for Landslide Hazard Review: This report provides several recommendations/conclusions for development. The following bullet points are taken from pg. 5 and 6:

- *Install and maintain silt fencing or other erosion control techniques to reduce migration of sediment*
- *It is recommended to perform excavation during dry weather*
- *If performed during wet weather*
  - *Provide temporary drainage towards existing or natural drainage paths*
  - *Provide visual/physical barriers for open pits/steep cut slopes*
    - *Excavation shall be stabilized if left open for more than 48 hours*
    - *Steep slopes shall be covered with tarps to deter the slope from becoming saturated*

- *Grading the Site is expected minimally mainly at the raingarden and driveway*
- *Grades shall not exceed 2H:V during development of the Site.*
- *Slopes exceeding #H:1V should be planted with drought-tolerant vegetation*
- *Slopes shall be protected using one or more of the following methods*
  - *Re-routing of stormwater*
  - *Erosion control blankets*
  - *Compost wattles*
  - *Silt fencing*
- *Design Recommendations*
  - *Foundation shall be designed to resist lateral earth pressures if built into the earth*
  - *Route all stormwater away from the base of structures*
  - *Route all stormwater towards existing and/or natural drainage*
  - *Do not discharge stormwater at the tops of any steep slopes or above structures*
  - *Route stormwater towards the roadside ditch in Maplecrest Court or municipal stormwater system*
  - *Foundation design shall take into consideration shallow groundwater*
  - *Foundation design shall use a prescriptive 1,500 psf allowable bearing capacity*
  - *Allowable bearing capacity can be increased to 2,100 psf if foundations are based on minimum three feet below existing surface*
  - *Foundation drains shall be installed and discharge in a safe location*
  - *It is recommended to protect existing trees on Site where possible*
  - *No vegetation shall be removed from areas with slopes equal to or greater than 1H:1V*

**2. Staff Response:**

The recommendations and conclusions noted above were reviewed by the Site Development section of the Bureau of Development Services (Exhibit E.5). As part of their land use response, Site Development has indicated that an additional geotechnical memo will be required at the time of building permit application. Their response states,

*“The memo must indicate that the Geotechnical Engineer has reviewed the building permit drawings and takes no exception with the plans as related to the requirements of OSSC 1804.1, 3304 and 3307 (i.e. Proposed construction, excavations, and/or grading cannot result in damage or undermining of adjacent property or adjacent structures or adjacent retaining walls). **Any mitigation requirements indicated by the geotechnical engineer within this memo must be reflected in building permit drawings.**” [Emphasis added]*

The current geotechnical recommendations and the review of building permit drawings by a geotechnical engineer will ensure that the proposed development does not impact adjacent properties.

**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.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land	A phased land division or staged final plat has not

	Division or Staged Final Plat	been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	All of the proposed parcels are on the north side of the street and they 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 R10 zone. Based on the applicant's survey, the site area is 20,000 square feet. The maximum density in the R10 zone is one unit per 10,000 square feet. Because the site is within the potential landslide hazard area there is no minimum density. The site has a maximum density of 2 units and no minimum required density. The applicant is proposing 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)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
<b>R10 Zone</b>	6,000	17,000	50	60	30	40	40
Parcel	8,817		88	88	88	N/A	N/A

1						
Parcel 2	8,880 (flag portion only) 11,022 sq. ft.	N/A	N/A	N/A	100.04	98.03

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

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

### Flag Lots

#### ***When allowed***

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

#### ***Dimensions***

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

#### ***Vehicle Access***

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

In this case, the site is currently developed with a driveway that provides off street parking for the existing single-family residence that will remain on proposed Parcel 1. This driveway will be extended to the north of the site to provide off-street parking for Parcel 2. Both the existing concrete driveway, and the new driveway, will extend over the western portion of Parcel 1 and within a portion of the "pole" on Parcel 2 as shown in Exhibit C.1. The shared vehicle access minimizes the need for additional driveways along SW Maplecrest Ct. and the impervious area resulting from paved surfaces for vehicle access.

The applicant has proposed two private access easements to allow shared access for off-street parking between Parcel 1 and Parcel 2. A 12-foot wide private access easement is proposed along the "pole" portion of Parcel 2 and will allow Parcel 1 shared access of the existing private driveway. A second 10-foot wide private access easement is proposed on Parcel 1 and will also provide vehicle access along a portion of the existing driveway for Parcel 2.

The proposed 10-foot wide easement shown on Exhibit C.1 and Exhibit C.3 also encompasses an area that will include a proposed stormwater line connected to a flow through planter designed to manage stormwater from Parcel 1. The applicant did not clarify whether the private access easement was intended to incorporate this stormwater management facility or if Parcel 2 would share maintenance responsibilities for this feature with Parcel 1. Therefore, prior to final plat approval the applicant must either modify the easement so that the proposed flow through planter is not within the boundaries of the private access easement, or the maintenance agreement that will be required for the private access easement must clarify the maintenance responsibilities for this planter between Parcel 1 and Parcel 2.

Similarly, the 12-foot private access easement along the "pole" portion of Parcel 2 shown on Exhibit C.1 and C.3 will include utilities for Parcel 2, such as laterals for: water, sewer, and storm. The applicant did not clarify if Parcel 1 will be responsible for these utilities in conjunction with the private access easement. Therefore, prior to final plat approval the

applicant will be responsible for clarifying the maintenance responsibilities for these utilities within a maintenance agreement for the 12-foot private access easement.

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

As shown in the table on pg. 6 of this report, the required lot dimension requirements, including requirements for flag lots, and applicable density requirements, have been met. Additionally, with conditions requiring clarification of maintenance responsibilities for utilities and stormwater planters within the private access easements, or modification to the location of these easements, the property may be divided to create Parcels 1 and 2 as proposed.

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.

In order to identify which trees are subject to these requirements, the applicant provided a tree preservation plan (Exhibit C.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.22) 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, 11 trees which provide a total of 249 inches of tree diameter, are subject to the preservation requirements of this chapter. The applicant has proposed to preserve the following 6 trees as shown on Exhibit C.2 as part of this land division:

- Tree No.5 – 29-inch Big leaf maple
- Tree No.9 – 25-inch Big leaf maple
- Tree No. 10 – 25-inch Big leaf maple
- Tree No. 11 – 36-inch Red Oak
- Tree No. 17 – 32-inch Western Red Cedar
- Tree No. 18 – 25-inch Western Red Cedar

The applicant's arborist has indicated that all six trees will be protected pursuant to the Performance Path requirements of Title 11. According to the applicant's arborist report (Exhibit A.22) the Performance Path standards per 11.60.030 have been addressed and the following measures have been taken:

- The applicant's arborist has visited the site and inspected the trees multiple times. The provided tree preservation plan (Exhibit C.2), if followed, will adequately protect and preserve the trees.
- The arborist has indicated they will be on site and observing all excavation within the inch/foot arc (i.e. root protection zone) for the trees to be preserved. The applicant has provided a contract for arborist services that is signed and dated by the applicant and the arborist.
- Alternative construction methods for tree protection methods involve boring for the rain drain pipe near tree No.9 and tree No. 10.
- The arborist has signed, dated, and provided their contact information on the tree preservation plan (Exhibit C.2).

The following is an excerpt from the provided arborist report which outlines specific recommendations for tree preservation, pruning, root protection, and tree protection fencing regarding certain trees:

- **Tree No. 10:** *"Pruning/Cabling recommendations: strongly recommend a bracing/cabling system to be installed."*
- **Tree No. 9 & 10:** *"TPZ SPECIFICATIONS FOR RAIN DRAIN CONSTRUCTION: There will be some boring that will be taking place for the down spout to link into the rain drainage. The boring/digging will be at a 2-foot depth and it will be taking place within the Tree Protection Zone. All of this digging and construction within the TPZ, will be REQUIRED that a Certified Arborist be onsite for the entire duration of this specific project. Any roots that are present during the digging, the Certified Arborist will be responsible to administer the Root Pruning, accompanied with pictures of the work and it will need to be documented in the form of a[n] Arborist Report with the results of the work. Due to the location of the proposed rain drain, I recommend that the work be completed with the Arborist on site during the entirety."*
- **Tree No. 11:** *"Tree Protection Fence: Inside the tree protection fence, it is a requirement that a certified Arborist be onsite while working inside the dripline/tree protection zone. And for the proposed driveway. This will keep root damage to a minimum. The Fencing shall be installed no closer to the trunk than 14-15 ft in circumference. Fencing is to be installed as part of the fence also protecting tree # 5 and starting at the foot diameter of this tree then running along the proposed driveway north eventually turning east 10-feet from the property line until it intersects the property line to the east. Once the fence is installed a Certified arborist shall inspect and approve or not approve the installation."*

As it pertains to Tree No.11, the applicant's arborist report states, *"The Fencing shall be installed no closer to the trunk than 14-15 feet in circumference"*. Later in the same report, the arborist states that the tree protection fence should be, *"At a location of no closer to the trunk of 10ft, this will ensure that the root zone stay intact and the construction damage be minimized"*. Ultimately, the report concludes that the applicant will, *"need to move the fencing to approx. 3ft at its closest point when the driveway is to be installed...Once the driveway is completed, the driveway will need to be re-installed to its original position until the construction is completed"*. The current tree preservation plan shows tree protection fencing approximately 3-feet from the trunk of tree No. 11. Based on the arborists recommendations the fencing is not intended to be set at a 3-foot distance for the duration of construction activity, only for that period of time when the driveway is being completed. Therefore, prior to final plat approval, the applicant shall provide a revised Clearing/Grading and Tree Preservation Plan that depicts where the tree protection fence shall be placed for tree No.11, a 36-inch D.B.H. Red Oak, during construction activity other than the period of time necessary to install the driveway. The revised tree protection fence shall be shown in a location consistent with the arborist report provided in this land use review (Exhibit A.22).

In this case the applicant is proposing to retain a total of 6 trees which account for 77 percent of the trees that are 20 or more inches and 69 percent of the total tree diameter (or 172 inches) on site. Therefore, the proposal complies with:

*Option 2: Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least 25 percent of the total tree diameter on the site.*

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

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 1 and Parcel 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.2), any revisions to the Tree Preservation Plan as conditioned above, and the Arborist Report (Exhibit A.22).

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 trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

**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.

In order to evaluate the proposal against these criteria, the applicant has submitted a Landslide Hazard Study of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.14).

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated the Landslide Hazard Study and concurred with the recommendations. The report indicates 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 given the soil composition, topography, and other risk factors. Site Development also reviews the stormwater disposal system as it relates to site slope stability and building setbacks. According to Site Developments land use response (Exhibit E.5), the landslide hazard study provided by the applicant (Exhibit A.14) indicates,

*“Oversaturation of soils is a leading cause of slope and retaining wall failure. It is recommended that the roof-drain and foundation drains be routed away from retaining walls or structures. It is recommended to allow storm drains to discharge in an area that is not immediately up or down-gradient of any structures.”*

Based on this assessment from the landslide hazard study, Site Development required that the stormwater discharge methodology for the existing Single-Family Residence (SFR) on Parcel 1 be clearly shown on the LU drawings. In addition, they offered two conditions of approval to ensure stormwater runoff does not impact slope stability and building structures. These conditions require the applicant to either:

1. Submit a signed and stamped memorandum from the soils engineer indicating that they have reviewed the current mode of stormwater discharge for the existing Single-Family Residence and that they take no exception with the current mode of stormwater disposal.

**OR**

2. Provide a memo describing a method of mitigation for stormwater discharge on the site relative to slope stability and/or existing structures.

In order to address Site Developments August 1, 2018 land use response, the applicant submitted an updated Stormwater Management Report (Exhibit A.20) on September 17, 2018. This report was reviewed by the Bureau of Environmental Services for compliance with the stormwater management requirements of chapter 33.653. BES notes that this report states that the existing home's downspouts will be reconnected to the ditch in SW Maplecrest Ct. The existing home is proposed to discharge partially through the reestablished connection to the ditch and partially to the lined planter. Site Development (Exhibit E.5.a) has indicated that these changes to the stormwater management for the existing house on Parcel 1 will eliminate the need to infiltrate stormwater into the ground and will therefore satisfy their requirements for slope stability.

In conclusion, 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.

A Preliminary Clearing and Grading Plan showing contour changes was not submitted with the land division application however, the applicant did submit a Landslide Hazard Report (Exhibit A.11) and a Stormwater Management Report (Exhibit A.20) that describes how clearing and grading should occur on the site to minimize erosion risks. The applicant labeled Preliminary Clearing and Grading and Tree Preservation Plan (Exhibit C.2), in conjunction with the applicant's arborist report (Exhibit A.22) also designates areas on the site where grading/construction activity should not occur in order to protect the roots of the tree on the site that will be preserved.

The applicant's geotechnical engineer (Exhibit A.14) suggests that grading for the site is expected to be minimal and that the stability of slopes on site will increase with proper storm/groundwater design by providing a safe route for stormwater flow. It is anticipated that existing contours and drainage patterns will be left intact except in areas planned for vehicle access, building foundation, or utility rights-of-way, wherever practicable (Exhibit A.18). Stormwater runoff from the lots will be appropriately managed by grading around the proposed single-family residence on Parcel 2 which will help to ensure that runoff will continue downhill toward natural drainage, away from the new structure. roof drains will be directed into a proposed flow-through stormwater planter. Overflow from this planter will be directed through a storm line into the public drainage ditch adjacent to SW Maplecrest Ct as shown on Exhibit C.1. With regards to the existing house on Parcel 1, the existing downspouts will be reconnected to the ditch in SW Maplecrest Ct. As noted in the applicant's arborist report (Exhibit A.22) and narrative (Exhibit A.21) there will be some boring that will take place to link this downspout into the existing storm drain line. This boring will take place within the RPZ of Tree No. 9 and No. 10, both 25-inch Big leaf maples. The arborist recommends that a Certified Arborist be onsite for the entire duration of this work to ensure the roots of these trees are not damaged. Furthermore, due to soil compaction that will occur within the RPZ of the mature 36-inch Red oak tree (Tree No. 11) during the construction of the proposed driveway on Parcel 2, the arborist recommends bringing the grade up, and using asphalt instead of digging within the trees RPZ. They have also indicated that a Certified Arborist must be on site for the duration of this work.

Lastly, the applicant's arborist report has also identified 1 Big leaf maple tree near the North East corner of the site on an adjacent property. This tree is further than 15-feet from potential disturbance areas on Parcel 2; however, the arborist recommends installing tree protecting fencing 10-feet south from the trunk which will intersect with an existing fence along the eastern property line as shown on the tree preservation plan (Exhibit C.2). The tree protection measures noted above will help limit erosion by assuring that the roots of these trees will not be impacted and will continue to hold the soil in place.

As shown above, the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. In addition, the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report. These criteria are met.

### ***Land Suitability***

The site is currently in residential use, and there is no record of any other use in the past. 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. The applicant did submit a letter from Locates Down Under (Exhibit A.5) indicating that ground penetrating radar was used to scan the property for abandon cesspool/septic tank. However, the County Sanitarian does not except Ground Penetrating Radar as a valid method for determining cesspool locations. Therefore, prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of any potential facility through the appropriate permit process.

With a condition requiring final inspection for a decommissioning permit or otherwise meet Site Development requirements, the new lots can be considered suitable for new development and this criterion is met.

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

**Findings:** No tracts are proposed or required for this land division, so criterion A does not apply.

The following easements are proposed and/or required for this land division:

- A 12-foot Private Access Easement is proposed over the flag pole of Parcel 2 to provide a shared access serving Parcels 1.
- A Private Access Easement is proposed over the western 10-feet of Parcel 1 to provide shared access for Parcel 2.

As described on pages 6 and 7 of this report, under the discussion of vehicle access for the flag lot, the applicant has shown easements for which the maintenance responsibilities and locations must be clarified prior to Final Plat approval. As discussed earlier, prior to final plat approval the applicant must either modify the 10-foot private access easement so that the proposed flow through planter is either not within easement area, or the maintenance agreement must clarify the maintenance responsibilities between Parcel 1 and Parcel 2 for this facility.

Similarly, the 12-foot private access easement along the "pole" portion of Parcel 2, as shown on Exhibit C.1, will include utility laterals for Parcel 2. The applicant did not clarify if Parcel 1 will be responsible for these utilities in conjunction with the private access easement. Therefore, prior to final plat approval the applicant will be responsible for clarifying the maintenance responsibilities for these utilities in the associated maintenance agreement.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for easements described above and facilities within those areas. This criterion can be met with the condition that maintenance agreements are prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

*“A Declaration of Maintenance agreement for Private Access Easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

With the conditions of approval discussed 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. 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. Mitigation may be necessary to reduce impacts.

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 proposes to divide one parcel on which there is an existing home into two parcels to include one flag lot, thereby increasing the total number of dwellings that can be provided on the parcel by one. The applicant provided a written statement to address the transportation approval criteria. According the ITE Trip Generation Manual, 9<sup>th</sup> Edition, a new single-family detached dwelling is expected to generate approximately ten trips per day, including one additional trip during the morning peak hour and one additional trip during the evening peak hour. Based on that information, the proposed development will not significantly impact street capacity or level-of-service. The shared driveway that is proposed will decrease the impacts of the proposed development on on-street parking as well as on the sidewalk corridor. As a condition of Building Permit approval, the applicant is required to provide a shared access easement. On-site parking spaces in conjunction with on-street parking will provide sufficient loading areas for two single-family dwellings and preserve/reduce demand for on-street parking. Bus stops for lines #38 and #39 is within 0.3 miles of the proposed development. SW Maplecrest at this location is a low-volume street on which pedestrians, bicyclists, and vehicles share use of the right-of-way. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area. The proposed development will not negatively impact transit service or safety for any mode.*

While limited, PBOT has indicated that there will be additional traffic and parking demand as a result of this project. The parking impacts will be minimized by providing on-site parking and a shared driveway as discussed above. In addition, as discussed in more detail in the findings for Criterion L, Services and Utilities, the applicant will provide an approximate 2-foot right-of-way dedication along the frontage of the site. This will allow standard street improvements to be made in the future to address cumulative transportation impacts of additional development on this street and in the surrounding area. The future residents of the land division site will benefit from the future improvements by having improved facilities for walking, cycling, and driving.

With conditions for street dedication along the frontage of the site and for a shared driveway serving the lots, the transportation system is capable of 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><b>33.651 Water Service standard</b> – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report. The water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1, E.1.a, &amp; E.1.b for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report. Sanitary connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to a City sanitary or combined sewer. All discharge must be connected via a route of service approved by the BES Chief Engineer. The sanitary sewer service standards of 33.652 have been verified.</p> <p>According to City records, the existing structure on proposed Parcel 1 is currently connected to the sanitary sewer via a lateral that will remain within the frontage of the lot served after the proposed land division.</p> <p>Parcel 2 will be served by a new connection to the sanitary sewer in SW Maplecrest Ct. via a sanitary lateral located in the pole portion of the flag lot.</p> <p>BES staff has determined that sufficient information has been provided to demonstrate an approvable route of sanitary service for each lot; therefore, this criterion is met.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1.b &amp; E.5</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:</p> <ul style="list-style-type: none"> <li>• <b>Public Street Improvements:</b> Stormwater runoff from public right-of-way improvements as required by the City of Portland Bureau of Transportation (PBOT) must be managed according to the standards of the SWMM and the Sewer and Drainage Facilities Design Manual. BES understands that the applicant has elected to pay the Local Transportation Infrastructure Charge (LTIC) to meet PBOT requirements. Therefore, the final plat must show adequate right-of-way dedication for future improvements to accommodate stormwater management facilities in the public right-of-way, to the satisfaction of BES.</li> <li>• <b>Parcel 1 (with the existing house):</b> The existing home’s downspouts will be reconnected to the ditch in SW Maplecrest Ct. The existing home is proposed to discharge partially through the reestablished connection to the ditch and partially to a 70 square foot lined planter that removes pollutants and suspended solids. BES has indicated that that regardless of the chosen stormwater management approach, the downspouts of the existing house must be physically retrofitted. Therefore, prior to final plat approval the applicant must modify the stormwater disposal system serving the existing structure on Parcel 1 according to BES and SWMM requirements. The applicant must obtain finalized permits, as required by BES, prior to Final Plat approval.</li> </ul>

In addition, the reconstructed garage and portions of the driveway will also drain to the lined planter before discharging to the ditch in SW Maplecrest Ct. No shared facilities between Parcel 1 and Parcel 2 are proposed.

It is infeasible for a portion of the driveway to drain to the planter and because the area is under 500sf, it meets the exemption for residential driveways listed on page 1-19 of the SWMM.

- **Parcel 2 (the lot with the existing house):** Stormwater from the roof and the driveway will be directed into a 192 square foot flow-through planter that removes pollutants and suspended solids. Overflow from the planter will travel via pipe to the ditch along SE Maplecrest Ct. In addition, a tree credit will be utilized for a small portion of the new driveway on Parcel 2 that will not flow to the new planter.

For the reason described above, this criterion is met.

**33.654.110.B.1 Through streets and pedestrian connections – See Exhibit E.2.**

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. The Portland Bureau of Transportation has provided the following findings (Exhibit E.2):

*The parcel to the north of the subject parcel appears as if it cannot be further divided, therefore impeding the potential development of a full pedestrian connection. Therefore, a pedestrian connection is not required.*

In addition, PBOT has not identified any street connections for this property.

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.

At this location, the City's Transportation System Plan (TSP) classifies SW Maplecrest Court as a Local Service Street for all modes. Based on City GIS maps, it appears as if SW Maplecrest at this location is within the City of Portland and owned and maintained by the City of Portland. On February 2, 2018, Multnomah County verified to PBOT that SW Maplecrest at 927 SW Maplecrest (adjacent property) is within the jurisdiction of the City of Portland. Additionally, PBOT Development Review verified with PBOT Right-of-Way Acquisition on February 6, 2018 that PBOT has full jurisdiction over the subject ROW and maintains the ROW at 927 SW Maplecrest. The same jurisdiction applies to this location on SW Maplecrest.

According to City of Portland GIS data, at this location, SW Maplecrest is improved with a paved roadway of approximately 20-feet in a 50-foot ROW. There is no sidewalk or curb. At this location, the *Portland Pedestrian Design Guide* recommends a 14-foot sidewalk corridor to consist of a 0.5-foot curb, 8-foot furnishing zone, 5-foot sidewalk, and 0.5-foot frontage zone. The standard street width at this location is 26-feet. If the applicant elects to construct improvements at the time of Building Permit they are required to provide 13-feet of paved roadway from the right-of-way centerline, with a curb located 13-feet from the right of way centerline and the standard 14-foot sidewalk corridor.

In order to construct standard improvements at this location in the future at least 2-feet of dedication is required on SW Maplecrest Ct.

PBOT notes that the applicant has provided written documentation in the narrative

indicating that they elect to pay the Local Transportation Infrastructure Charge (LTIC) and will be required to execute street and stormwater waivers of remonstrance and comply with all other applicable City Code provisions, administrative rules, and policies. Furthermore, the applicant must pay the LTIC prior to approval of Final Plat.

This criterion is met, with the conditions that the required right-of-way dedication is shown on the Final Plat and that the Local Transportation Infrastructure Charge is paid prior to approval of 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. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order 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.

### **Future Development**

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

- Flag Lots—Only the flag portion of the lot is counted for building coverage per PCC 33.110.204.F.3

**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 R10 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 will be more than 10-feet 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 plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- Attached Accessory Structures – In this zone, attached accessory structures are required to meet setback standards and are not allowed to cross property lines. Therefore, in order for the proposed new lots to meet this standard, the existing carport on Parcel 1 must be removed or modified prior to final plat. According to permit history, the applicant has already demolished a portion of this carport to meet setback requirements under permit No. 18-129986 RS. However, this permit has not yet been finalized. The applicant must provide documentation prior to final

plat approval that the required demolition and reconstruction of the garage has received final inspection approval.

## OTHER TECHNICAL REQUIREMENTS

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

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

- Conditions at the time of Final Plat. The applicant must meet the requirements of the **Fire Bureau** in regards to:
  1. The applicant has elected to use the exception for automatic fire sprinklers (Exhibit A.25) and will be required to execute and Acknowledgment of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 1. The acknowledgment shall be referenced and recorded with the final plat. A notarized copy of the acknowledgment must be provided prior to approval of the plat.
  2. Ensuring adequate hydrant flow from the nearest fire hydrant. A reduction in required fire flow of 50 percent, as approved by the Fire Bureau, is allowed when the building is provided with an approved automatic sprinkler system.
- Conditions of approval at the time of development where required by the fire code official. Because the applicant has proposed internal sprinklers, the driveway is not considered a fire access way. Therefore, the applicant must meet the following requirements of the **Fire Bureau**:
  1. Addressing structures

## CONCLUSIONS

The applicant has proposed a 2-parcel flag lot partition, as shown on the attached preliminary plans (Exhibit C.1, C.2, and C.3). 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:

- Slope stability and land slide hazards
- Stormwater management
- Tree Preservation
- Demolition of existing structures
- Zoning code standards for future development of flag lots
- Fire code requirements

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

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2-parcel flag lot partition, that will result in that will result in one standard lot and one flag lot as illustrated with Exhibit C.1, C.2, and C.3, subject to the following conditions:

**A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for BDS land use 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, including the reconstructed garage on Parcel 1;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application

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

1. The applicant shall meet the street dedication requirements of the City Engineer for SW Maplecrest Ct. The required right-of-way dedication must be shown on the final plat.
2. A Private Access Easement over the “flag pole” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. A Private Access Easement over the western 10-feet of Parcel 1 for the benefit of Parcel 2 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for. The applicant has the option to revise the easement as currently proposed to exclude any area necessary for existing or future stormwater facilities required by BES, including but not limited to, the proposed flow-through planter proposed on Parcel 1.

**NOTE:** Alternatively, a reciprocal access easement may be shown benefiting buildings on both lots.

4. 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.5, C.6, and C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for Private Access Easement has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

### Streets

1. The applicant must provide the required payment of the Local Transportation and Improvement Fund that applies to the frontage of the subject parcel and execute street and stormwater waivers of remonstrance and comply with all other applicable City Code

provisions, administrative rules, and policies to the satisfaction of the Portland Bureau of Transportation.

### **Utilities**

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

### **Existing Development**

3. The applicant must obtain a finalized permit for removing/remodeling the portion of the existing carport on Parcel 1 that crosses the property line into Parcel 2. Any new or remodeled structures, must have finalized permits and must be shown on supplemental survey as noted in Condition A above.
4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
5. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the applicant must modify the stormwater disposal system serving the existing structure on Parcel 1 according to BES and SWMM requirements. The applicant must obtain finalized plumbing permits for modifications to the system required by BES prior to Final Plat approval.

### **Required Legal Documents**

6. A Maintenance Agreement shall be executed for the Private Access 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, to include utilities, stormwater management facilities, or vegetation 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.
7. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1 and 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**

9. Prior to final plat approval, the applicant shall provide a revised Clearing/Grading and Tree Preservation Plan that depicts where the tree protection fence shall be placed for tree No.11, a 36-inch D.B.H. Red Oak, during construction activity other than the period of time necessary to install the driveway. The revised tree protection fence shall be shown in a location consistent with the arborist provided in this this land use review (Exhibit A.22).

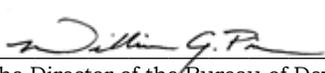
### **D. The following conditions are applicable to site preparation and the development of individual lots:**

1. Development on Parcel 1 and Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.2), the revised Tree Preservation Plan as required by condition C.9 above, and the applicant's arborist report (Exhibit A.22). Specifically, trees numbered 5, 9, 10, 11,

17, and 18 are required to be preserved, with the root protection zones indicated on Exhibit C.2. and as revised by condition C.9 above. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts. Per the arborist report, arborist supervision is required during any excavation within the root protection zones, the rain drain for the existing house on Parcel 1 must be bored and tree protection fencing may be altered during the construction of the driveway on Parcel 1 to preserve the 36-inch D.B.H Red Oak. Please see the applicant's arborist report Exhibit A.22 for details.

2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2 the flag lot. The location of the sign must be shown on the building permit.
3. 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.
4. The applicant will be required to install residential sprinklers in the new houses on Parcel 2 to the satisfaction of the Fire Bureau.
5. Shared driveway within the private access easements are required to service Parcel 1 and Parcel 2. No additional driveways along the frontage of Parcel 1 are allowed.

**Staff Planner: William Piro**

**Decision rendered by:**  **on January 7, 2019**  
By authority of the Director of the Bureau of Development Services

**Decision mailed January 9, 2019**

**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 January 2, 2018 and was determined to be complete on June 26, 2018.

*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 January 2, 2018.

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 a total of 150 days, as stated with Exhibit A.23 and A.24 Unless further extended by the applicant, **the 120 days will expire on: March 23, 2019.**

**Note: 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.

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on January 23, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails.

**Appeal fee waivers.** Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190<sup>th</sup>, Portland, OR 97233.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 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.ci.portland.or.us](http://www.ci.portland.or.us) .

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

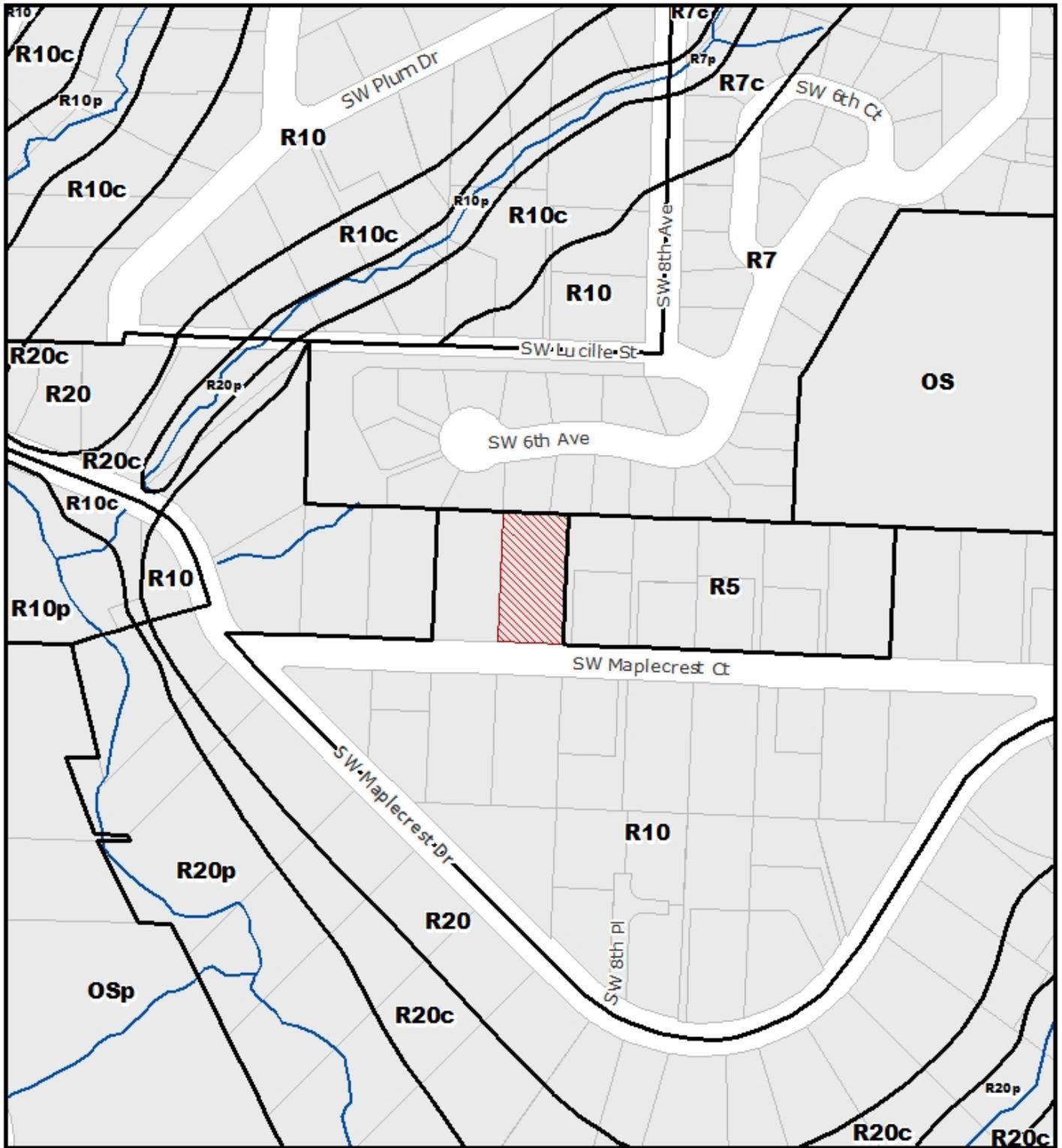
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**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.
  - 1. Neighborhood Contact Information
  - 2. January 2, 2018 Narrative Addressing Land Division Approval Criteria
  - 3. January 2, 2018 Topographic Survey
  - 4. January 2, 2018 Proposed Improvement Plan and Partition Plat
  - 5. January 2, 2018 Locates Down Under Cesspool/Septic Tank Locate
  - 6. January 2, 2018 Stormwater Memorandum
  - 7. January 2, 2018 Geotechnical Memorandum for Landslide Hazard Review
  - 8. January 2, 2018 Transportation Narrative
  - 9. June 18, 2018 Proposed Improvements/Stormwater Plan
  - 10. June 18, 2018 Clearing/Grading and Tree Preservation Plan
  - 11. June 26, 2018 Narrative Addressing Land Division Approval Criteria
  - 12. June 26, 2018 Arborist Report
  - 13. June 26, 2018 PAC Report
  - 14. June 26, 2018 Updated Geotechnical Memorandum for Landslide Hazard Review
  - 15. June 26, 2018 Stormwater Management Report
  - 16. June 26, 2018 Proposed Improvements/Stormwater Plan
  - 17. June 26, 2018 Clearing/Grading and Tree Preservation Plan
  - 18. September 17, 2018 Narrative Addressing Land Division Approval Criteria
  - 19. September 17, 2018 PAC Report
  - 20. September 17, 2018 Stormwater Management Report
  - 21. November 28, 2018 Narrative Addressing Land Division Approval Criteria
  - 22. November 28, 2018 Arborist Report and Contract for Services
  - 23. 120-day waiver
  - 24. 120-day waiver
  - 25. Applicant Request to Use Automatic Exception to Fire Access
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. November 28, 2018 Proposed Improvements/Stormwater Plan (attached)
  - 2. November 28, 2018 Clearing/Grading and Tree Preservation Plan (attached)
  - 3. December 18, 2018 Partition Plat
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
    - 1.a August 23, 2018 Bureau of Environmental Services Addendum
    - 1.b September 26, 2018 Bureau of Environmental Services Addendum
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
    - 5.a Site Development Email
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Residential Plan Review Section of BDS
- F. Correspondence/Letters:
  - 1. Al Levi, July 8, 2018, letter addressing concern about land division.
  - 2. Al Levi, July 17, 2018, letter proposing alternative options for land division.
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. Expedited Land Division Acknowledgment

**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
-  Stream

File No.	LU 18-100488 LDP
1/4 Section	4028
Scale	1 inch = 200 feet
State ID	1S1E28DB 2400
Exhibit	B Jan 04, 2018



**LOT 13 MAPLECREST - 901 MAPLECREST CT**  
**CLEARING/GRADING AND**  
**TREE PRESERVATION PLAN**

NO.	DESCRIPTION	DATE

DRAWN BY: JMM  
 CHECKED BY: JMM  
 DATE: NOV 14, 2018  
 SHEET: 2

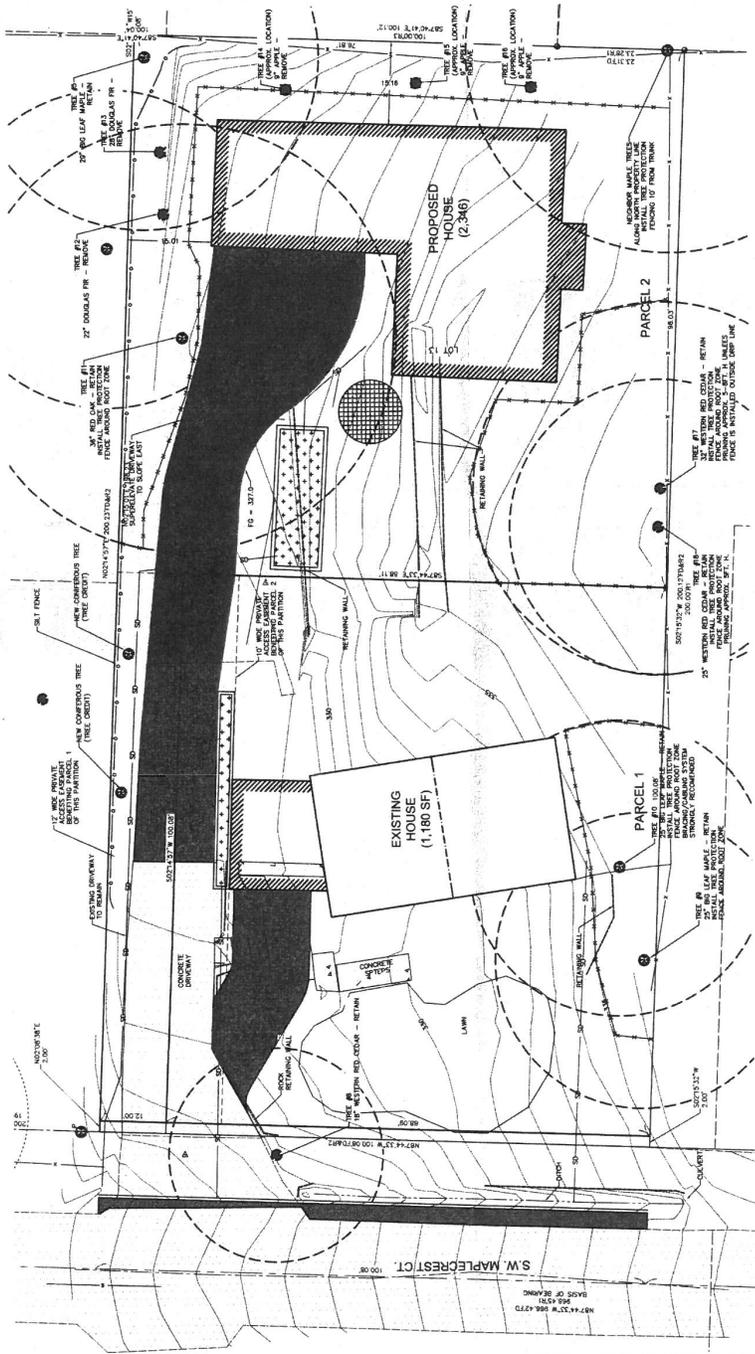
REV: 11/14/2018  
 NOV 28 2018

**LEGEND (EXISTING)**

- FENCE
- EDGE OF ASPHALT
- CONTOUR (1 FOOT INTERVAL)
- EXISTING TREE (SIZE AS NOTED)
- EXISTING TREE (SIZE AS NOTED)
- CONTROL POINT
- CONCRETE DRIVEWAY

**LEGEND (PROPOSED)**

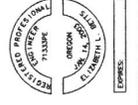
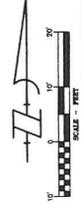
- PROPOSED EDGE OF ASPHALT
- SILT FENCE
- TEMPORARY STOCKPILE AREA
- LINED FLOW-THROUGH PLANTER
- PROPOSED CONCRETE DRIVEWAY
- REMOVE TREE
- ROOT PROTECTION ZONE
- TREE PROTECTION FENCE



**GENERAL NOTES**

- 12' WIDE ACCESS EASEMENT ON PARCEL 2 IS PROPOSED TO SERVICE PARCEL 1 AND SHALL BE A 10' WIDE ACCESS AND UTILITY EASEMENT IS PROPOSED ON PARCEL 1 TO SERVICE PARCEL 2.
- PROPOSED DRIVEWAY FROM THE BACK OF THE EXISTING EXISTING HOUSE TO THE PROPOSED DRIVEWAY SHALL BE CONSTRUCTED AT APPROXIMATELY 2% GRADE TO BE SUFFICIENT TO ACCOMMODATE THE PROPOSED DRIVEWAY AND GRASSY EXCAVATION. IT IS ESTIMATED THAT THE DRIVEWAY SHALL BE APPROXIMATELY 10' WIDE, 1' TO 2' DEEP, 2.25' LONG / 1200' WIDE = 26.1 C.Y.
- CONSTRUCTION FENCES SHALL BE PLACED AROUND THE PERIMETER OF THE PROJECT TO PROVIDE PROTECTION OF ANIMALS AND PEOPLE.

**PRELIMINARY**  
 PLOTTED: 11/14/2018  
 SAVED: 11/13/2018



**ARBORIST CONTACT INFORMATION**

THIS TREE PRESERVATION PLAN HAS BEEN REVIEWED AND APPROVED BY:  
 CONTRACTOR: JMM  
 DATE: 11/14/18

2018-11-14 11:14:18 AM W:\Projects\2018\11\14\18\901 MAPLECREST\DWG\1103-PROPOSED.dwg PLOT DATE/TIME: 11/14/2018 - 10:55am

LK 18-100488 LDP EXH C.2