



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: July 5, 2019
To: Interested Person
From: Kate Green, Land Use Services
503-823-5868 / Kate.Green@portlandoregon.gov

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 19-109794 LDP

GENERAL INFORMATION

Applicant: Danelle Isenhardt / Emerio Design
6445 SW Fallbrook Place #100, Beaverton OR 97008
503-746-8812 or danelle@emeriodesign.com

Property Owner: Mark Kovalev / Global Housing Inc.
5822 SW Miles Street, Portland OR 97219
503-313-4529 or globalhousingpdx.yahoo.com

Site Address: 5822 SW MILES STREET

Legal Description: BLOCK 4 LOT 1, APRIL HILL
Tax Account No.: R031700270
State ID No.: 1S1E19BD 05400
Quarter Section: 3723

Neighborhood: Maplewood / Virginia Bowers / 503-823-4592
Business District: None
District Coalition: Southwest Neighborhoods Inc. / Sylvia Bogert / 503-823-4592

Plan District: None
Zoning: Single Dwelling Residential 7,000 (R7)
Case Type: Land Division Partition (LDP)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA)

Proposal: The applicant requests a **Land Division-Partition** to divide an approximately 15,540 square foot property into two (2) parcels for single-dwelling development.

Prior to submitting for the land division, the owner received approval to construct a new house on this property (18-186921 RS). The new house will be located on Parcel 1 and will

have vehicle access from SW Miles Street. Parcel 2 will have frontage and vehicle access from SW 59th Avenue. The applicant's *preliminary site, proposed improvement and utility plan* shows how services (sanitary, stormwater and water) will be provided for 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 2 units of land (two parcels). 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 subject site is a relatively flat, approximately 15,540 square foot property situated on a corner with frontages on SW Miles Street and SW 59th Avenue. The site is currently being re-developed with a 2-story residence and attached garage. The former 1-story house was recently removed from the site, prior to submittal of this application. Several trees are located on the site with most being situated along or adjacent to the south lot line.

The surrounding residential area is generally bounded by SW Vermont Street to the north; SW 45th Avenue to the east; SW Multnomah Boulevard to the south; and SW Oleson Road to the west. Most of the nearby properties are in the R7 zone and are developed with one and two-story homes on lots that range in size from approximately 7,000 square feet to 20,000 square feet.

Other neighborhood features include *April Hill Park*, which is located approximately 200 feet east of the site and is in the open space (OS) zone. The park includes a trail connection between SW Miles-SW Logan, and an open channel connection to *Woods Creek*. *Wood Creek* traverses through the residential area to *Fanno Creek* (outside of the city boundaries) and has also environmental conservation (c) and protection (p) overlay zones. *Maplewood Elementary School* is located approximately 1,700 feet east of the site and several religious institutions are also located nearby.

The street pattern of the residential area is variable due to hilly terrain and nearby stream channels and includes a mix of through and dead-end streets. Some streets are fully developed with sidewalks and stormwater facilities and some have only a center strip of paving.

Infrastructure:

- **Streets** – The site has approximately 94 feet of frontage on SW Miles Street and approximately 150 feet of frontage on SW 59th Avenue.

At this location, the City's Transportation System Plan (TSP) classifies SW Miles Street as a *City Bikeway* and *Local Service* for all remaining modes and SW 59th Avenue as a *Local Service* for all modes. Both street frontages also have a *Public Recreational Trail* designation.

Generally, in this location, SW Miles is improved with an approximate 28-foot wide paved roadway within a 50-foot wide right-of-way (ROW) with curb only; likewise, SW 59th Avenue is improved with an approximate 24-foot wide paved roadway within a 50-

foot wide ROW with curb only. Recently, sidewalks have been installed along the frontages of the subject site, and there is one driveway entering the site that serves the newly constructed house.

Tri-Met Lines #1 and #45 are located within a quarter mile and half mile of the site.

- **Water Service** – There is an existing 4-inch water main in SW 59th Avenue. Static pressure is estimated at 54 psi to 68 psi.
- **Sanitary Service** - There are public 8-inch CSP sanitary-only sewers in SW Miles Street and SW 59th Avenue (BES as-built #2649).
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The site is situated in the Single Dwelling Residential 7,000 (R7) zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

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 **April 17, 2019**. Six written responses have been received from the Neighborhood Association or notified property owners. Three additional written responses were received after the close of the comment period.

The neighbors raised concerns about the style of the new house; street designs and maintenance; accuracy of the property boundaries; damage to neighboring development; tree removal; power line safety; land use review procedure; and public notice and distribution. The neighborhood comments were forwarded to the applicant to foster communication with the neighbors, and the applicant provided a response to the neighborhood concerns (Exhibit A.3).

In addition, staff responses to the neighborhood comments are provided below. Where the concerns are related to the land division approval criteria, specific code citations are provided; otherwise, many of the concerns are not addressed in the land division approval criteria and are outside of the scope of this review.

Style of the new house: The neighbors cite concerns about the design of the new house that is under construction on the site being a departure from the style of the surrounding homes. The new house was reviewed and permitted prior to the submittal of this land use review. Any development on the site or on the parcels approved through this land use review must comply with the development standards that apply at the time of the permit application. At this time, the site and the surrounding residential area are not in a design or historic district, and the zoning regulations that apply allow for flexibility in style.

Street design and maintenance: Concerns about new sidewalks and a lack of street maintenance were raised. Street connectivity and design of the rights-of-way are addressed in **Criterion L**, below. Roadway maintenance is the responsibility of the Portland Transportation and the Bureau of Maintenance and is not addressed through the land division approval criteria.

Property boundaries: Several neighbors noted differences between the property boundaries shown in the project survey and those indicated by fences on the site and abutting properties. The City conducts the land use review based on the property boundaries

provided by the applicant's licensed surveyor. Any dispute regarding the accuracy of the survey would need to be addressed independently of the land use review.

In the event the property boundaries are modified through a separate process, such as a court order, it appears feasible the proposed parcels could continue to meet the applicable lot dimension standards, since the size of each new parcel is over the minimum lot area required for the R7 zone, as discussed in **Criterion A**, Lots, below.

Damage to neighboring development: Disputes regarding damages to private property must be addressed by the affected parties and are outside of the scope of the land use review process.

Tree removal: Based on city records, several trees located within the public right-of-way were removed along the SE 59th Avenue frontage, under the authority of Urban Forestry. The arborist report provided for the land division shows the trees located on the subject site are exempt from the Land Division Tree Preservation regulations (33.630) as nuisance species, so this review does not require protection of those trees. Additional details about new mitigation trees that have been planted on the site are discussed in **Criterion G**, Clearing and Grading, below.

Power line safety: Neighbors raised concerns about the safety of power lines that straddle the site and adjacent properties. The utility companies that own the power poles and service lines are responsible for ensuring the safety of those facilities. Likewise, any contractor working on the site is required to comply with applicable building and electrical codes.

Additionally, as addressed in **Criterion L**, Services and Utilities, below, the applicant has proposed an easement over proposed Parcel 2 for an existing overhead electrical line serving the new house under construction on proposed Parcel 1. Alternatively, the applicant could seek a new electrical connection via the public right-of-way. Easements that may be needed for utilities that cannot be accommodated within the adjacent rights-of-way are allowable.

Land use review procedure: A neighbor cited objections to the pending application being evaluated through the Type IX procedure. The applicant has applied for a 2-parcel partition and no other reviews are requested or triggered; so, in accordance with 33.660.110, the Type IX procedure applies.

Public notice and distribution: A neighbor objected to the information in the public notice about the proposed parcels and the applicant and owner contact details. The public notice is prepared by city staff and describes the proposal, the contact information for the applicant, and the name of the property owner, based on the application materials.

A neighbor raised concerns about the distribution of the public notice reaching the correct property owners. In accordance with 33.730.070.A, the mailing list for the initial "notice of proposal" was based on the property ownership information available in the public property records at the time the notice was mailed. Also, per 33.730.070.A, the mailing list for this "land use decision" will be updated to include anyone who wrote in during the comment period and to add any new property ownership information available in the public property records at the time this decision is mailed.

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:
B	33.630 – Tree Preservation	The applicant’s arborist report indicates the onsite trees over 6-inches in diameter are nuisance species, which are not subject to the preservation standards.
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 have been proposed or will be required. An easement for an existing electrical service is addressed in Criterion L, 33.654.130.A, Utilities.
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	No pedestrian connections are 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 R7 zone.

The maximum density in the R7 zone is one unit per 7,000 square feet. Minimum density is one unit per 7,000 square feet based on 80 percent of the site area.

Based on the applicant’s survey, the site area is 15,540 square feet. Therefore, the site has a maximum density of 2 units and a minimum density of 1 unit, in accordance with 33.610.100.E. The applicant is proposing 2 single dwelling parcels, so the density standards are met.

The required and proposed lot dimensions 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)
R7 Zone	4,200	12,000	40	55	30
Parcel 1	7,442		76	101	78
Parcel 2	8,098		73	111	73

* 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.

Based on these factors, the applicable density and lot dimension standards are met. Therefore, 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: 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.

Additionally, where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements to make the lots suitable for their intended uses and the provision of services and utilities.

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable.

As noted previously, the nuisance trees on the site not subject to the Land Division Tree Preservation requirements (33.630). However, Urban Forestry notes that the applicant was required to plant 4 new trees on the site as mitigation for the removal of a street tree through Public Works Permit number TH0797, and Urban Forestry indicates those mitigation trees must be preserved or replaced per Urban Forestry regulations. The applicant's land use plans show 6 trees have been planted on proposed Parcel 2 as mitigation for the removal of a street tree, and the applicant provided an arborist report that indicates those trees will be protected with a 6-foot root protection zone. With a condition that future development plans for Parcel 2 must include the following note: "Urban Forestry Mitigation Trees required through Public Works Permit number TH0797 must be preserved or replaced as required by Urban Forestry", this should ensure those trees are managed in accordance with Urban Forestry regulations.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new parcels can be considered suitable for new development.

Based on the foregoing, these criteria are met.

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

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

Parcel 1 is a corner lot on the southeast corner of the intersection. Parcel 2 is interior lot on the east side of the north-south street. In this context, there is no preference that any one lot be wider or narrower than the other lots. As such, this criterion is met.

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

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 and measures to mitigate impacts may be necessary.

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 addressing the transportation approval criteria above. The applicant has demolished the previous single-family residence on the property and is the process of constructing a new home fronting onto SW Miles, in addition to the current request for a two-lot partition with the new lot fronting onto SW 59th to the south. Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, each proposed parcel is projected to generate one additional morning and evening trip, for approximately ten daily trips for each new parcel. The net addition of one single-family residence added to the transportation system resulting from the development will not adversely impact the operations of area intersections and is consistent with the zoning of the property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area. The applicant is proposing off-street parking for two vehicles for each lot, each accessed off the opposing street, which maximizes available on-street parking adjacent to the subject site and is consistent with surrounding uses. Therefore, the proposal is consistent with the established neighborhood pattern of the area, and the anticipated demand for additional on-street parking is expected to be minimal. The site is well served by transportation options to reduce impacts to the neighborhood and provide safety for all modes, including Tri-Met bus service #45-Garden Home Ave. within half mile from the site, and Line # 1-Vermont providing rush hour service within a quarter mile. The streets of SW Miles and SW 60th are identified City Bikeways, providing safe routes to other areas in the City on surrounding low volume traffic streets. The proposed development will construct a new pedestrian corridor abutting the subject site to City standards, including a 5-ft wide sidewalk and a new ADA corner. This segment of SW Miles has an Off-Street Path trail destination, which serve as shortcuts to link urban destinations along greenbelts such as rivers, parks, and other scenic corridors. The proposed improved pedestrian corridor abutting the property will serve as the trail connection, providing an off-street hardscape surface meeting current ADA standard. Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes and will enhance pedestrian environment and improve pedestrian safety.

Based on the foregoing, PBOT concurs with the information supplied. PBOT has determined that the transportation system will be capable of supporting the proposed development in addition to the existing uses in the area, with the standard sidewalk corridor improvements that are under construction along the site's frontages (discussed in Criterion L. 33.654, below). These criteria are met.

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

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

33.651 Water Service standard – See Exhibits E.3 and E.4

The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report.

Initially, the Fire Bureau noted the fire flow available to the site did not meet the Fire Code requirements; and the Water Bureau noted the existing 4-inch main would need to be upsized to a minimum of 6-inches at the applicant's expense, in the event a new hydrant is needed to address the Fire Bureau requirements.

Subsequently, the applicants submitted additional fire flow information about 2 nearby hydrants showing a combined fire flow of 1600 gpm at 20 psi residual pressure. The applicants indicated they will install an automatic sprinkler system in the new development on Parcel 2, which is an allowed exception to the Fire Code. The Fire Bureau notes that sprinkler system option is allowable, provided an Acknowledgement of Special Land Use Conditions (ASLUC) is provided and noted on the plat.

Based on these factors, the water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report. The sanitary sewer service standards of 33.652 have been verified.

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

The Bureau of Environmental Services reviewed the applicant's plan for the stormwater management facilities for the rights-of-way and the private lots and provided the following:

Public Right-of-Way Stormwater Management: PBOT requires new sidewalk construction in a pedestrian corridor where a curb and paved street already exist. Constructing the sidewalk so that it slopes toward a vegetated area and/or planting street trees will be a viable alternative to constructing stormwater management facilities.

Private Property Stormwater Management: Stormwater runoff from this project must comply with all applicable standards of the SWMM and the SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's stormwater report from Emerio Design (dated 8/7/18) and infiltration testing report from Rapid Soil Solutions. Tested infiltration rates were found to be approximately 3.75 in/hr at approximately 16 inches below ground surface. Per the submitted stormwater report, the applicant proposes to discharge stormwater from future development on Parcel 2 to a soakage trench located along the western edge of the parcel. Per the submitted site plans, the proposed soakage trench can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM. Per RS 18-186921 and the submitted site plans, the house under construction on Parcel 1 will also discharge to a soakage trench located along the western property line. The soakage trench on Parcel 1 appears to meet setback requirements to the proposed new property line.

Staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the preliminary land division against the stormwater management approval criterion.

Based on the foregoing, this criterion is met.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and 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 subject site is located at an intersection of established rights-of-way, therefore additional connections are not warranted at this location.

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

In reviewing this land division, PBOT 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.

PBOT has identified the following design standards apply to the site's frontages:

For Local Service traffic streets within an R7 zone, the City's Pedestrian Design Guide requires a 10-ft pedestrian corridor, comprised of a 0.5-ft curb, 4-ft furnishing zone, 5-ft sidewalk, and 0.5-ft frontage zone.

PBOT has determined that both frontages have sufficient ROW to construct improvements without dedication, however both frontages will need to be improved prior to Final Plat and reconstruct the corridor to City standards, including the corner.

The applicant has submitted a Public Works Permit (18-249077 WT | TH0797) for required frontage improvements adjacent to the entire parent parcel and has received 30% approval at time of this decision.

PBOT has noted that the following condition should be applied, prior to final plat approval, to ensure these improvements are made: The applicant achieves 30% Concept approval and provides financial guarantee for frontage improvements.

Based on the foregoing, the width of the right-of-way will be sufficient to accommodate the expected users; and, with the conditions of approval described above, this criterion is met.

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

A Private Utility Easement is proposed over Parcel 2 to provide access for an existing overhead electrical line serving the new house under construction on Parcel 1. Alternatively, the applicant could seek a new electrical connection via the public right-of-way. 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. As such, 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.

Existing Development: The newly constructed house on the site will be located on Parcel 1. The division of the property may not cause the structure to move out of conformance or further out of conformance to any development standard applicable in the R7 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 newly constructed house will be located on Parcel 1, which will be a corner lot. On corner lots, the shortest lot line is the front lot line. With the proposed lot changes, the shortest lot line for the property with the house will switch from the SW Miles Street frontage to the SW 59th Avenue frontage. Therefore, the house must meet the required Zoning Code setbacks from the new front lot line and the new interior lot line between Parcels 1 and 2.

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. Based on the plans provided by the applicant, the house is at least 20 feet from each street lot line, and at least 20 feet from the new interior lot line, so the required setbacks are met. To ensure the setback standards continue 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 lot lines.

- Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the overall site. Due to the land division, Parcel 1 with the newly constructed house will no longer meet this standard. Parcel 1 is 7,442 square feet, so 2,977 square feet of tree area is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized 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.

- Fire Bureau: The applicant must meet the requirements of the Fire Bureau for addressing of structures and residential fire sprinklers. These requirements are based on the 2016 Portland Fire Code and the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). The primary issues identified with this proposal are:

- Sidewalk and ramp improvements

- Residential sprinkler requirements

As discussed in this report, with conditions that address these requirements, the relevant standards and approval criteria have been met.

Neighbors' concerns related to the accuracy of the applicant's survey, the land use review procedure and public notice requirements, street designs, and tree removal, as well as several other issues that are outside of the scope of this land use review, were addressed in the *Neighborhood Review* section (pages 4-5).

As noted in the neighbors' letters, the new house and future development on the site may be a departure from the scale and style of the surrounding development; however, through the lens of the land division approval criteria, the proposal satisfies the relevant criteria.

Overall, based on the findings throughout this report, this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition that will result in 2 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 review and approval by Land Use. 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;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - Any other information specifically noted in the conditions listed below.
- B. The final plat must show the following:**
1. 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.3 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Special Land Use Conditions has been recorded as document no. _____, Multnomah County Deed Records."
- C. The following must occur prior to Final Plat approval:**

Streets

1. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation for required street frontage improvements.

Existing Development

2. The applicant must meet the tree density standard of 11.50.050 on Parcel 1 with the existing house by either planting trees on the lot or making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Required Legal Documents


3. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression

sprinklers, to the satisfaction of the Fire Bureau. The acknowledgement shall be referenced on and recorded with the final plat.

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

1. Development on Parcel 2 must include the following note on all permit plans: "Urban Forestry Mitigation Trees required through Public Works Permit number TH0797 must be preserved or replaced as required by Urban Forestry".
2. The applicant must meet the addressing requirements of the Fire Bureau. The location of the sign(s) must be shown on the building permit.
3. The applicant will be required to install residential sprinklers in the new house on Parcel 2 to the satisfaction of the Fire Bureau.

Staff Planner: Kate Green

Decision rendered by:  **on July 2, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed July 5, 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 22, 2019 and was determined to be complete on April 11, 2019.

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 22, 2019.

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 by 42 days (Exhibit A.5). Unless further extended by the applicant, **the 120 days will expire on: September 20, 2019.**

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

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

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use

review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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

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

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.**

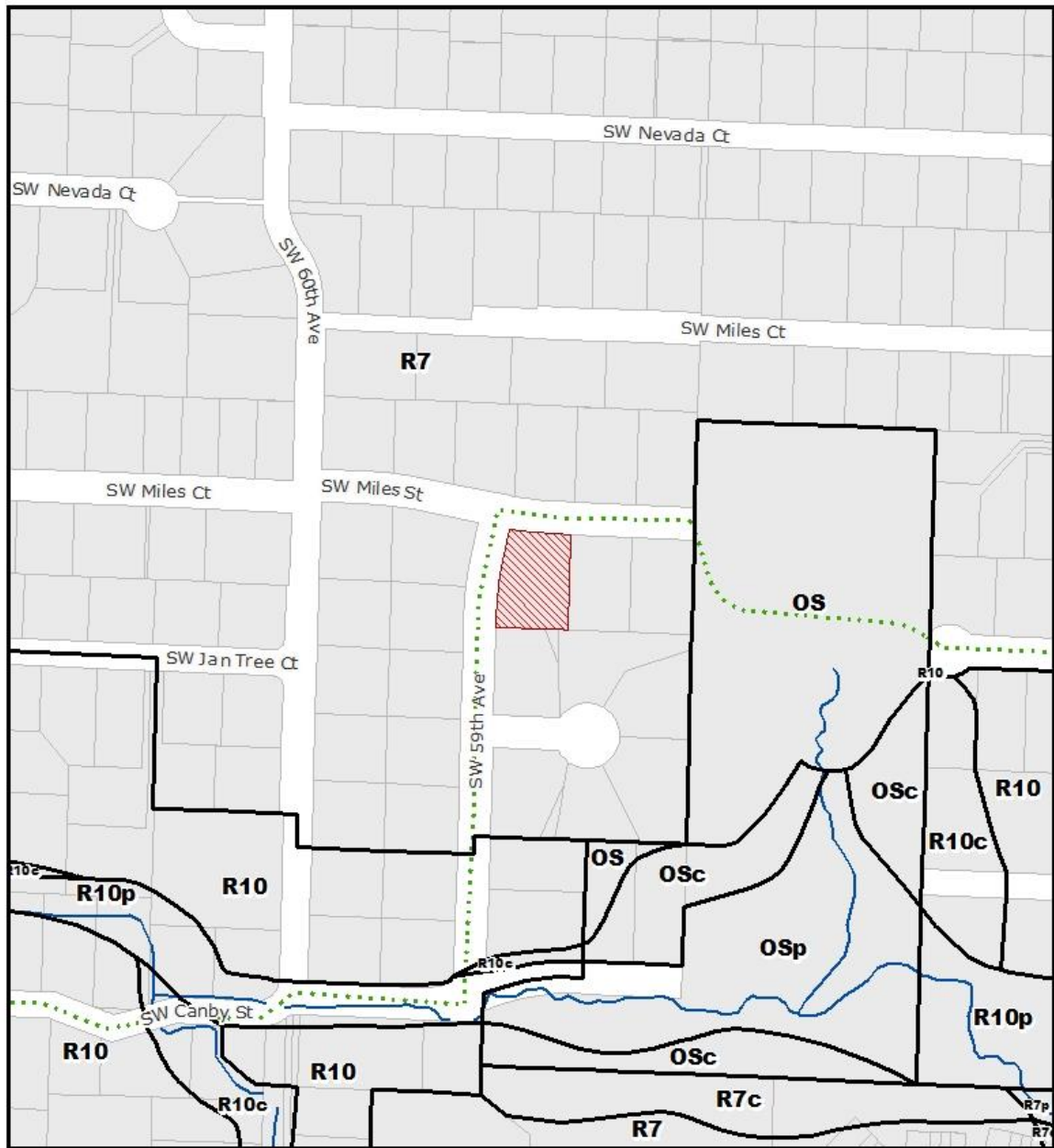
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Initial Submittal (January 22, 2019)
 - 2. Revised Submittal (April 11, 2019)
 - 3. Response to neighborhood letters (June 4, 2019)
 - 4. Fire Flow Updates (email June 7, 2019)
 - 5. Timeline Extensions (May 29, 2019 and June 13, 2019)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat (reduced copy attached)
 - 2. Existing Conditions Plan (April 11, 2019)
 - 3. Full-size Plan Set (April 11, 2019)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development/BDS
 - 6. Urban Forestry/Parks
 - 7. Life Safety/BDS
- F. Correspondence:
 - 1. Elizabeth Robinson, email May 16, 2019, re: property boundaries, public notice, review procedure, house design
 - 2. Sarah Welsh, email May 16, 2019, re: survey, trees, power lines (a duplicate was hand delivery May 17, 2019)
 - 3. Robert and Carolyn Wild, email May 17, 2019, re: house design, street design and maintenance, property boundaries

4. Elizabeth Robinson, mail May 17, 2019, re: property boundaries, public notice, review procedure, house design (*a duplicate was received via mail May 20, 2019, after close of comment period*)
 5. Amber N Szuch on behalf of Laurie R Hager, email May 17, 2019, re: property boundaries, encroachment on and damage to neighboring property (*a duplicate was received via mail May 20, 2019, after close of comment period*)
 6. (*Elizabeth Robinson, email May 18, 2019, received after close of comment period*)
- G. Other:
1. Original LU Application
 2. Expedited Land Division Acknowledgement
 3. Incomplete Letter
 4. Correspondence to/from applicant

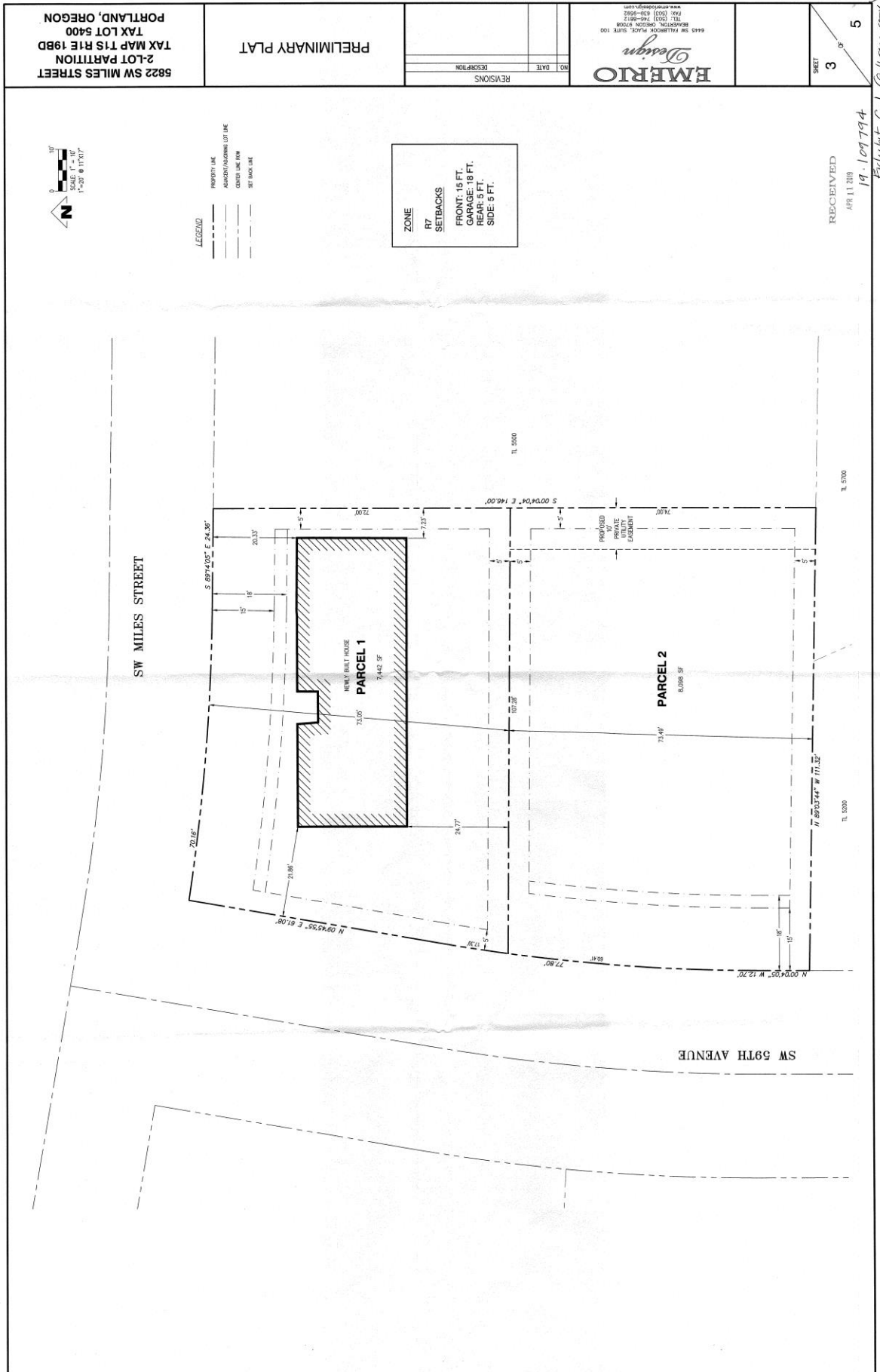
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING ↑
NORTH

-  Site
-  Stream
-  Recreational Trails

File No.	LU 19-109794 LDP
1/4 Section	3723
Scale	1 inch = 200 feet
State ID	1S1E19BD 5400
Exhibit	B Jan 24, 2019



5822 SW MILES STREET
 2-LOT PARTITION
 TAX MAP T1S R1E 19BD
 TAX LOT 5400
 PORTLAND, OREGON

PRELIMINARY PLAT

NO.	DATE	REVISIONS

EMERIO
Design
 6445 SW FALLBROOK PLACE SUITE 100
 PORTLAND, OREGON 97239
 TEL: (503) 436-8882
 FAX: (503) 436-8883
 WWW.EMERIODESIGN.COM

SHEET 3 OF 5

RECEIVED
 APR 11 2018
 19-109794
 Exhibit C-1 (Full size copy)

ZONE
 R7
 SETBACKS
 FRONT: 15 FT.
 GARAGE: 18 FT.
 REAR: 5 FT.
 SIDE: 5 FT.

LEGEND
 --- PROPERTY LINE
 --- EASEMENT/ENCUMBRANCE OF TITLE
 --- CONVEYED LINE FROM
 --- SETBACK LINE

