



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: August 14, 2019
To: Interested Person
From: Lois Jennings, Land Use Services
503-823-2877 / lois.jennings@portlandoregon.gov

NOTICE OF A TYPE II_x 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 18-176880 LDP

GENERAL INFORMATION

Applicant: Zack Nolan
PO Box 66438 | Portland, OR 97290
503-956-4455 | PDXContractorsLLC@gmail.com

Owner: Zack Nolan & Veristone Mortgage LLC
6725 116th Ave. NE #210 | Kirkland, WA 98033

Representative: Sarah Radelet
Strata Land Use Planning
PO Box 90833
Portland, OR 97290

Site Address: 5724 SE Flavel Dr
Legal Description: BLOCK 24 EXC SELY 48' LOT 12, DARLINGTON
Tax Account No.: R197906940
State ID No.: 1S2E19DD 10200
Quarter Section: 3836
Neighborhood: Brentwood-Darlington, contact Patrick Burke at bdlanduse@gmail.com.
Business District: Woodstock Community Business Association, contact norberg@myexcel.com.

District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010.
Zoning: Residential 5,000 (R5) with the "a" Alternative Design Density overlay zone.

Case Type: Land Division Partition (LDP)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal: The applicant proposes a two-parcel partition of a 10,803 square-foot site to create parcels for development of detached dwellings. Parcel 1 is proposed to be 3,617 square-feet in area and will contain the existing dwelling. Parcel 2 is a 7,189 square-foot flag lot. Sanitary sewer service and water service will be provided by existing utilities located in SE Flavel Drive. Driveway vehicle access for both parcels will be from the access pole from Parcel 2.

During the land use review process the flag access pole to Parcel 2 was relocated to the north side of the property.

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

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

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

The zoning map indicates the site is zoned R5a since this land division application is vested in the zoning and zoning code in effect at the time the application was submitted on May 24, 2018 prior to 1 pm. The current zoning of the site, as of May 24, 2018 @ 1 PM is R7- Single Family Residential with “a”-Alternative Design Density overlay

FACTS

Site and Vicinity: The project site is an interior lot on the south side of SE Flavel Drive. SE Flavel Drive curves at this location. A vacant boarded up single-story house and garage exist on the site with overgrown vegetation and deciduous and fir trees. The upper portion of the site is relatively flat but then gradually slopes beyond the existing house to the southwest, where there is a more moderate slope.

Within the vicinity surrounding this area, properties are developed with mostly single-story house, with a few 2-story single-dwelling residence mixed in. The R5-single-family (1 unit per 5,000 s.f.) zoning is to the north, south, west and east of the site. The zoning changes to R7 on the south side of SE Harney Drive. The closest park is approximately 1000-ft. to the west on the south side of SE Flavel Drive. There are a few commercial uses located along SE 52nd Avenue which is northwest of this property.

Infrastructure:

- **Streets** - The site has approximately 54-ft. of frontage on SE Flavel Drive. There is one driveway entering the site that serves the existing house on the site. At this location, SE Flavel Drive is classified as a Neighborhood Collector, City Bikeway, City Walkway Community Corridor (design mode), and Local Service Street for all other modes. Tri-Met provides transit service approximately 1600-ft. from the site at intersection of Flavel Street & 57th Avenue via Bus line #71.

SE Flavel Drive has an approximate 34-ft paved roadway surface with no curbs or sidewalks. Street parking occurs on both sides of the street within the gravel shoulder area of the street.

- **Water Service** – There is an existing 4-inch water main in SE Flavel Drive. Static pressure is estimated at 56-70 psi. The existing house is served by a 5/8-inch metered service from this main.

- **Fire Hydrant Water Service** – The nearest fire hydrant to this site is on the south side of SE Flavel Drive adjacent to the house with the address of 5710 SE Flavel Drive. This fire hydrant is estimated to have a flow of 1600 gpm with an estimated residual pressure of 20 psi.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary sewer line in SE Flavel Drive (BES as-built#5050). There is an existing lateral from the subject site to the manhole in SE Flavel Drive.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

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

The “a” overlay is intended to allow increased density that meets design compatibility requirements. It fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division is not using any provisions of the “a” overlay.

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 November 30, 2018. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
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.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site

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

Applicable Approval Criteria are:

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

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the R5 zones. Based on the applicant's survey, the site area is 10,806 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

Because the site is within the potential landslide hazard area there is no minimum density.

The site has a maximum density of 2 units. The applicant is proposing two-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)
R5 Zone	3,000	8,500	36	50	30	40	40
Parcel 1	3,617		41	90.5	41.33	n/a	n/a
Parcel 2	6,020 without pole 7,189 with pole		n/a	n/a	n/a	52	115

* 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 site has dimensions which preclude a land division that meets the minimum lot width standard. The site has a width of less than 53 feet. 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 flag pole portion of Parcel 2 will provide off street parking access for both the parcels. The original notice of proposal showed the access pole to the south side of the property in the vicinity of the existing driveway. During the land use review process City staff requested the applicant and applicant's arborist to evaluate relocating the access pole to the north of the site in consideration of the ability to protect more native trees on the south portion of the site. The preservation of trees on the site in association to the relocation of the access pole will be discussed below under approval criterion 33.630.

At the same time City staff consulted with PBOT Traffic Engineer to determine if there would be a sight distance issue with relocating the access pole to the north side of the site versus retaining it on the south. PBOT Traffic Engineer visited the site and determined the access pole from the north would be preferable for sight distance along this curved portion of SE Flavel Drive. Due to the high volume of traffic along SE Flavel Drive, existing vegetation and location of this site along the curve of the street, safety was a concern when entering and exiting this property. Therefore, as discussed under Transportation Impacts (Section 33.641) PBOT is requiring a single shared driveway via the flag pole for both Parcels and that vehicles enter and exit the street in a forward motion from the site. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. An access easement will be placed over the entirety of the pole to allow shared access and a condition of approval is included for both parcels to use the driveway within the pole.

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

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

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

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

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development

allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

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 survey (Exhibit A.1) that shows the location of trees on and adjacent to the site. The applicant also provided several arborist reports (Exhibit A.3, A.9, A.12, A19, A20, A.21) that identifies each tree, its condition and suitability for preservation or its exempt status.

Tree Inventory				
Tree #	Species	DBH		Per Portland Plant List Is considered Priority Native Tree for retention based on size
102	Douglas Fir	19-inch	Good	Priority Native
103	Douglas Fir	29-inch	Fair	Priority Native
104	Incense Cedar	30-inch	Fair	
105	Big Leaf Maple	11.5- inch	Good	
106	Big Leaf Maple	12-inch	Good	
107	Big Leaf Maple	13-inch	Fair	
108	Douglas Fir	17-inch	Fair	Priority Native
109	Western Red Cedar	12-inch	Good	Priority Native
110	Western Red Cedar	11-ich	Good	Priority Native
111	English Walnut	31-inch	Good	
112	Big Leaf Maple	35-inch	Poor	Priority Native
		Total 220.5		

33.630.100 Minimum Tree Preservation Standards

- A. The applicant must show how existing trees will be preserved.** The options listed below represent minimum tree preservation standards. Additional tree preservation may be required to meet the approval criteria of Section 33.630.200. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in Section 33.630.030, Trees exempt from these regulations. The applicant must choose one of the following options:

On the original submittal with flag pole on the south side of the site, the applicant's narrative (Exhibit A.11) and arborist report (A.12 & A.19) was proposing to preserve the following trees: #102, #104, #109, #110 and #111. This would be preserving 2 of the 4 trees that were greater than 20-inches in diameter and a total of 103 caliper inches of total tree diameter. This tree preservation plan would meet Option #3 of the tree preservation standard listed below:

Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.

On July 29, 2019, a revised preliminary land division survey site plan (Exhibit C.2) and Ztech preliminary site improvement and tree preservation plan (Exhibit C.1) was submitted by the applicant showing the access pole to the north. A new arborist report dated July 24, 2019 (Exhibit A.21) was also included, which addressed the tree preservation standard and approval criteria. This arborist report and plan noted the following trees would be preserved to meet the minimum standard: #102, 104, 108, 109, 110 and 111. This tree preservation plan is meeting Option #3 tree preservation standard by preserving two trees greater than 20-inches and preserving a total of 120-inches of total tree diameter (54 percent).

The tree preservation standard establishes a minimum standard and gives the applicant six options towards meeting the minimum standard and also states "Additional tree preservation may be required to meet the approval criterion of Section 33.630.030." Thereby, meeting the one of the minimum standards in 33.630.100.A may not be enough to meet the approval criteria in 33.630.200.

33.630.200 Tree Preservation Approval Criteria

In this land division proposal, during the land use review process City Staff requested the applicant to evaluate moving the access pole to the north for Parcel 2 and to have the applicant's arborist determine if additional native trees could be preserved or potentially a different building footprint, and/or driveway design on the south to preserve additional native priority trees.

The applicant decided to relocate the access pole to the north versus retaining the access pole to the south. A new arborist report dated July 17, 2019 (Exhibit A.20) was submitted by the applicant, evaluating trees with the location of the access pole on the north, which reflected the following trees being preserved: #102, 104, 108, 109, 110 and 111. Only one additional tree, Tree #108, was being preserved by proposing the access pole to the north of the site. The new plan also showed a larger conceptual building footprint than originally proposed and Parcel 1 and Parcel 2 different sizes than the previous plan. City Staff wrote a memo to the applicant on July 25, 2019 (Exhibit G.6) raising concerns about the arborist report not addressing Title 11 requirements for Performance Path, potentially impacting the adjacent trees to the west, how trees will be protected when utilities are being proposed through the root-protection zone and obtain additional information as to why tree #103 could not be preserved. The memo gave the applicant the option either having the access pole on the north or south side of the property.

In response to this memo, the applicant submitted on July 29, 2019 a preliminary survey site plan (Exhibit C.2) and Conceptual proposed improvement/site utility and tree preservation site plan (Exhibit C.1) with the access pole for Parcel 2 to the north. A new arborist report dated July 24, 2019 (Exhibit A.21) was submitted also at the same time addressing the tree preservation standard and approval criteria. The same trees #102, #104, 108, 109, 110 and

111, are being proposed to be preserved to meet the tree preservation standard and approval criteria. The applicant with this proposal is showing still Option #3 tree preservation standard being met by preserving two trees greater than 20-inches preserving a total of 120-inches of total tree diameter (54 percent).

The July 24, 2019 arborist report (Exhibit A.21) stated tree #103 -29-inch Douglas Fir is in fair condition, has been pruned for power lines and has poor structure” and will be removed. In addressing the approval criteria, the arborist report notes “Per the approval criteria in 33.630.200, preservation of the proposed trees with the driveway moved to the north allows for reasonable development of the site while maximizing tree preservation to the extent practicable. It is not practicable to require additional trees on the site and still allow for reasonable development on this sloped site being divided under the R5 zone.”

For this land division proposal the applicant has shown the minimum tree preservation standard has been met. However, City staff finds that the applicant has not demonstrated that the tree preservation approval criteria is fully met. Therefore, the tree preservation plan as proposed by the applicant will be required to change to meet the tree preservation approval criteria.

Criterion A requires showing that the trees preserved for preservation provides the greatest benefits (as identified in the 33.630.010 the purpose section) to the extent practicable. The applicant has not demonstrated that it is impracticable to preserve this additional tree, Tree 103, with a different house footprint. Even the applicant’s arborist report dated July 24, 2019 noted that to determine the actual root protection zone of this tree would require additional test excavation.

The approval criteria 33.630.200.A requires preserving trees with the greatest benefits, in particular healthy trees that are 20 or more inches in diameter are highest priority, in addition specific characteristics of trees, such as native tree growth rates and priority trees sizes in the Portland Plant List should be considered. Douglas Fir (18-inches), Big Leaf Maple (18-inches) and Western Red Cedar (10-inches) are noted as a size of tree that should be prioritized for preservation and protection in this application. The City acknowledges the Western Red Cedars identified as #109 & 110, are being preserved. Tree #103 is a 29-inch Douglas Fir tree high priority tree that needs to be considered being preserved as part of this review.

BDS Staff requested a City Tree Inspector from Urban Forestry to provide input on the trees and arborist report. BDS Staff and City Tree Inspector disagree with the arborists evaluation of Tree #103. The City Tree inspector concluded Tree #103 is in good condition and could be preserved with a change in building footprint design, consisting of the removal of the bumpout in the SE corner, which is approximately a 4’x 10’. The tree inspector also noted that that Tree #108 leans and may not be the best candidate for retention and further excavation to evaluate the root system would be necessary for #108.

BDS staff with consultation with City Tree Inspector, has determined Tree #103-Douglas Fir (29-inch) is in good condition, and with a minor changes to the proposed building footprint could be preserved and retained during future development on this site and would be a better candidate than Tree #108. BDS staff finds that the following trees can be preserved for this land division proposal:

- # 102- Douglas Fir (19-inch)
- # 103- Douglas Fir (29-inch)
- #104- Incense Cedar (30-inch)
- # 109-Western Red Cedar (12-inch)
- # 110-Western Red Cedar (11-inch)
- # 111-English Walnut (31-inch)

This list of trees to be protected, includes four native high priority size trees, and three trees larger than 20-inches, and still allows for reasonable development of a new house as anticipated in the R5-single-family residential zone. City staff finds that the above list of trees being preserved for this land division site is protecting trees to maximum extent practicable.

Tree #103 is in good condition per City Tree Inspector. Retaining tree #103 including the other larger trees and native priority trees will help preserve buffering, erosion control, screening, stormwater filtration and other functional benefits the tree preservation regulations are intended to achieve.

There is an existing driveway adjacent to trees identified as #103 and #104. Prior to final plat application submittal, the applicant may remove the first 25-ft. of the existing driveway to allow the applicant's arborist to do further excavation to evaluate the root-system of Tree #103 to determine the best alternative tree protection plan for preserving Tree #103. The arborist must be on-site during this removal of the first 25-ft. The remainder of the driveway will be removed as part of the demolition of the existing house and detached garage. With the applicant's arborist being on-site, prior to final plat submittal, the applicant may remove a portion of the driveway within the area of Tree 103.

During the removal of the driveway the City will require an arborist to be on-site to assure the long-term viability health of this tree and allow determination of an alternative tree preservation plan for future development on the site. Prior to approval of the building permit to remove the remainder of the driveway, house and garage on the site, a service contract must be provided by the applicant for having the arborist on site.

Prior to final plat approval, a revised final arborist report and revised tree preservation plan for the trees listed above must be submitted to the City. The applicant's arborist would be required to provide a specific alternative root protection zone for tree #103 and #102, and address any utilities being proposed within the root-protection zone of any trees being required to be preserved for this land division proposal. Also, the arborist report must address how the existing structures (house and detached garage) may be removed from the site while protecting the off-site/adjacent neighboring trees. This revised arborist report and tree preservation plan must be submitted prior to approval of the demolition permit for the existing structures and remainder of the driveway to be removed.

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.

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 Parcels 1 and 2 and must be carried out in conformance with the final Tree Preservation Plan and Arborist Report the City accepts at the time of final plat review.

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

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

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

In order to evaluate the proposal against this criterion, 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.13 & 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, provided the recommendations in the report are implemented.

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: 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.

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 Grading & Erosion Control Plan (Exhibit C.1) was submitted with the land division application. The applicant did submit a Geotechnical Engineering Report and a Landslide Hazard Report (Exhibit A.13 & A.14) that provides recommendations regarding having a geotechnical engineer on-site to observe construction (excavation, stripping, fill placement etc.) during construction.

The applicant also provided a Tree Protection Plan (Exhibit C.1) that designates areas on the site where grading should not occur to protect the roots of the trees on the site that will be preserved. In addition, the applicant's arborist report has identified tree on adjacent sites that are within 15 feet of potential disturbance area on the proposed lots. This arborist report (Exhibit A.20 & A.24) discusses the construction of the driveway on the north in relationship to the neighboring trees on the adjacent property and determined the trees would not be adversely impacted. Further exploration would be required for the development of the future house on this site in relationship to trees #123 & 124 on the adjacent property. The arborist report did not discuss how these off-site trees can be protected during the removal of the existing house and garage on the site. The arborist must address how the off-site native trees on the adjacent property can be protected during the removal of the existing house on-site. A revised report must be submitted addressing this issue prior to approval of the demolition permit for the house.

The landslide hazard study (Exhibit A.13) discusses planting deep-rooted vegetation (such as maple and fir trees) to hold the soil in place. Therefore, another reason to preserve the maximum number of native trees on this site is to assist in soil stability and prevention of erosion.

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.

With the condition noted above required the building permit for these parcels comply with the final arborist report, this criterion is met.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. The existing residence was constructed in 1922. Sewer was connected in 1999. In the interim, between 1922 and 1999, the residence was connected to onsite sewage disposal systems. Historical plumbing records indicate at the cesspool was not decommissioned when the residence was connected to sewer. The existing cesspool(s) must be decommissioned prior to final plat approval.

The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a building permit must be obtained and finalized for demolition of all structures on the site, with permits to decommission cesspool/septic system, and sewer capping prior to final plat approval. The submitted arborist report does not address how the trees on the neighboring property can be protected during the removal of the existing house. Prior to the approval of the demolition permit a revised arborist report must be submitted addressing how the house can be removed while preserving the neighboring trees (identified as #117, #118, #19 and #120) in order to ensure least impact to the health of these trees.

With these conditions, the new lots can be considered suitable for 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 easement is proposed and/or required for this land division:

- A Private Access Easement is required over the flag pole of Parcel 2 for the benefit of Parcel 1 to provide a shared driveway serving Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is 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 (name of feature) 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 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):

Street capacity and Level of service

SE Flavel Dr. has a 32-foot paved roadway surface which accommodates two-way vehicle travel with striped center line and fog lines. SE Flavel Dr. has adequate street capacity for motor vehicles. There appears to be an approximately 3 to 4 foot wide paved shoulders outside the fog line. No curbs or sidewalks exist on SE Flavel Dr. within the vicinity of the subject site. There is limited pedestrian capacity on this segment of SE Gladstone St. as pedestrians must walk on the paved shoulder or in the travel lane.. This does not meet City standards which call for a separated sidewalk. The increase in pedestrian trips to the site will have an incremental negative impact, causing some additional conflict between pedestrians and other modes.

This is a term used to describe vehicular traffic; it currently has little to no meaning for other modes. At this location, SE Flavel St. is a neighborhood collector for which traffic count data is not available. As described in the Transportation System Plan (TSP), neighborhood collectors are typically lower speed roadways which distribute traffic from Major City Traffic Streets or District Collectors to Local Service Streets. Neighborhood Collectors also serve trips that both start and end within areas bounded by Major City Traffic Streets and District Collects. It is believed this segment of SE Gladstone St. functions at an acceptable level of service to achieve its roles as a distributor of traffic from highly classified streets to local service streets. The anticipated increase of 10 trips per day from a new single family dwelling will have a de minimus impact on the vehicular traffic level of service.

Vehicle access and loading

The subject property has frontage on a 32-ft wide paved roadway with two travel lanes which connects into a generally complete network of paved streets. There is adequate vehicle access to the site. Loading activities are not anticipated to occur on a regular basis for the proposed single family home.

On street parking impacts

While SE Flavel Dr. is not signed for No Parking, the lack of paved roadway width outside of the fog line results in very few people parking in the right-of-way. Most of the homes along the streets in the immediate area include driveways and garages that accommodate multiple vehicles. The applicant's narrative states the proposed new homes will have on-site parking. This is an area where the zoning code requires one on-site parking space per dwelling unit. It is anticipated the development will generate little additional on-street parking demand.

The availability of transit service and facilities and connections to transit

There is no transit service within ¼ mile of the subject site. The nearest transit service an approximately 2,400 foot walk (0.45 miles) northwest of the site on SE Flavel St and or an approximately 3,200 foot walk (0.60 miles) southeast of the site on SE Johnson Creek Blvd. The only transit service in the area is on arterial roads such as SE Flavel St, SE Johnson Creek Blvd, and SE 72nd Ave. The sidewalk system to get to these arterial roads is incomplete, making pedestrian access to the available transit service constrained. Adding additional trips to an area where the pedestrian facilities needed to access transit are incomplete will have an incremental negative impact.

Impacts on the immediate and adjacent neighborhoods

The proposed development is anticipated to add a small number of trips from all modes into the neighborhood system. Both lots are proposed to have on-site vehicle parking. It is anticipated there will be few impacts to the larger neighborhood from the additional lot.

Safety for all modes

This segment of SE Flavel Dr. currently provides access for vehicular traffic, bicycle traffic, and pedestrians all within the roadway surface and an approximately 3 to 4 foot wide paved shoulder. The subject site is in a portion of the City with generally incomplete sidewalk networks. Sidewalks do exist on the block of SE 57th north of the subject site and for a portion

of the intersection of SE Malden Dr. and SE Harney Dr. The remainder of the area within ¼ mile of the site has streets with no curbs or sidewalks. Bike facilities in the area exist as shared travel lanes. The paved roadway network is largely complete with wide enough travel surfaces to allow bicycles to share the low speed, low volume, local-service roadways throughout the area.

The current configuration of SE Flavel Dr. requires pedestrians to share a travel lane with vehicular and bicycle traffic or walk on the narrow paved shoulder which discourages pedestrian travel. Streets where sidewalks are separated from the roadway provide an additional level of protection and comfort for pedestrian travel. The addition of one single family lot to the neighborhood is anticipated to increase trips via all modes. Adding additional pedestrian trips to an area where pedestrian facilities are incomplete will have an incremental negative impact.

SE Flavel Dr. is a neighborhood collector with striped travel lanes. This type of street typically sees a higher volume of cars and higher speeds than local service streets. Due to the volume of traffic, there is additional potential for turning movement conflicts when entering and exiting the roadway. The City Traffic Engineer has determined that forward motion ingress and egress will be required for any driveway accessing a street with a TSP Traffic Classification higher than Local Service Street and/or with lane markings. This includes single family homes and duplexes. The staff traffic engineer for the development review section performed a site visit to assess sight distance. She determined the flag pole location on the north side of the site is preferable, but the flag pole location on the south side of the site is also approvable. In either location, shared access over the flag pole portion will be required. Forward motion ingress/egress will also be required.

Mitigation (33.641.030)

The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets, alleys, or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

PBOT Concludes, based on the above analysis, the existing transportation system is adequate to serve the anticipated vehicular and bicycle trips to the site. Safety is a concern when entering and exiting the roadway due to the higher volumes on this street, the curvature of the road, and the presence of offsite vegetation affecting sight distance. PBOT recommends the driveway access to SE Flavel Dr. be a single shared driveway on the flag portion of proposed Parcel 2 with forward motion ingress and egress. A reciprocal access easement must be shown on the plat to guarantee continued shared access to both lots. A turning movement analysis for Parcel 1 to show that forward motion egress is possible via the proposed driveway design is also required prior to building permit approval for a new dwelling on Parcel 1.

Based on the above analysis, the existing pedestrian system is not adequate. The impact of the development is small enough that asking the property owner to provide improvements to the pedestrian system beyond the frontage of the subject lot would be out of proportion to the development request. Providing on-site improvements to allow pedestrians to safely traverse the site's frontage will alleviate a portion of the need for pedestrian system improvements along SE Flavel Drive. It will also have the added benefit of generating a wider paved area with a curb which can be used as on-street parking. The applicant will be required to provide improvements necessary to construct a standard sidewalk corridor as outlined below. The Public Works Permit for this work will need to achieve 30% concept approval prior to approval of the final plat.

With the conditions note above, these criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3, E.3a & E.4 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The future Parcel may use the existing 5/8-inch metered domestic water service from the 4-inch main in SE Flavel Drive. Water Service is available to the new parcels.</p> <p>The Fire Bureau has reviewed and verified the Fire Flow information (Exhibit A.15) from the nearest fire hydrant has adequate capacity to serve the proposed development. The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. Connection to public sewers must meet the standards of the City of Portland’s sewer and Drainage Facilities Design Manual.</p> <ul style="list-style-type: none"> • The applicant’s site utility plan shows Parcel 1 and 2 receiving sanitary service within each lot’s frontage from the public sanitary main in SE Flavel Drive. <p>Bureau of Environmental Services (BES) reviewed the site utility plan (Exhibit C.1) and comments are summarized below:</p> <p>Existing development: According to City records, there is an existing lateral from the subject site to the manhole in SE Flavel Drive. This lateral should be capped with the demolition and may be available for future use for the lot on which it is located. Per the submitted site plan, this proposed Parcel 1.</p> <p>Proposed Future Development: Parcel 2 will be served by a new connection.</p> <p>BES determined the applicant’s proposal for sanitary service acceptable for the purpose of reviewing this preliminary land division application against the sanitary sewer disposal standard and approval criterion. This standard and criterion is met.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Public Street Improvements: Stormwater from these new impervious areas will be directed into a vegetated planter “green street facility”. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has confirmed that the proposed vegetated planter is of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas. <p>BES notes the applicant received approval of 30% Concept Development Design for public stormwater management under Public Works WT 19-185436.</p> <p>Prior to final plat approval, the applicant must complete the following related to the construction of public stormwater facilities within the site’s frontages, to the satisfaction of BES: through the Public Works Permit submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.</p>

- **Parcels 1 and 2:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of drywell. Applicant also provided a stormwater report by Ztech Engineers (Exhibit A.22)

BES Staff reviewed the project's stormwater report from ZTec Engineers Inc (Exhibit A.22-July 2019) and Geotechnical Report from Rapid Soil Solutions (May 2018) and Landslide Hazard Study (LHS) from Gary C. Sandstrom, Geologist LLC (May 2019). The Geotechnical Report includes infiltration test results of 20 inches per hour and concludes that onsite infiltration of stormwater runoff on Parcel 1 and on the middle level bench of the slope on Parcel 2 should not be an issue with slope stability. The LHS finds that onsite stormwater disposal is acceptable. Therefore, the storm report proposes to infiltrate runoff from the development via onsite drywells. Based on the Geotechnical Report and LHS, the applicant proposes drywells located within 100 feet of slopes 20% or greater. The drywells are proposed to meet minimum setbacks to buildings and to property lines per the SWMM.

- Please note that per page 2-118 of the SWMM, the top of the perforated drywell sections must be located downgrade from foundations and at a lower elevation than local basements, which due to the slope of the site may necessitate deeper drywells than would otherwise be necessary.
- The applicant will be required to submit a complete utility plan and storm report in conjunction with the building permit. Proposed stormwater facilities must be designed in accordance with the Geotechnical Report and Landslide Hazard Study in addition to meeting SWMM requirements. Additional information may be requested at that time.

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

With the conditions noted above, the stormwater management criteria and standard 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.

Portland Bureau of Transportation (PBOT) provided the following comments:

The subject site is located 104 feet southeast an unbuilt platted pedestrian connection. No additional pedestrian connections are required.

The subject block has little in the way of east/west connectivity. The subject site is mid-block approximately 1,080 feet from the nearest vehicular through connection to the southeast and approximately 1,900 feet from the nearest vehicular through connection to the northwest. The subject site does not align with any existing east/west right-of-way. Additionally, the zoning in the area recently changed from R5 to R7, strongly limiting ability of surrounding parcels to further divide. The site is only 52 feet wide, making any additional public street connections impractical as the necessary dedication would result in a lot which is too small to divide. No additional public rights-of-way are proposed or required.

In addition, the site is not within an area that has an adopted Master Street Plan.

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, 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.

At this location, the City's Transportation System Plan (TSP) classifies SE Flavel as a Neighborhood Collector, City Bikeway, City Walkway, Community Corridor (design mode), and Local Service Street for all other modes.

Existing Improvements: SE Flavel at this location is improved with what appears to be a 34-ft paved roadway with a centerline and fog lines, in an 80-ft ROW.

Required Improvements: For a Neighborhood Collector abutting R5 zoned sites, the City's public right-of-way standards document requires a 70-ft right-of-way width to accommodate a 38-ft pavement width, which will allow for parking (to be converted to a bicycle lane in the future) and two 16-ft sidewalk corridors. The applicant is required to provide additional paving as need to establish a new curb located 19-ft from the right-of-way centerline stripe. A 16-ft sidewalk corridor consisting of a 0.5-ft curb, 8-ft public stormwater facility, 6-ft sidewalk, and 1.5-ft frontage zone is also required to be constructed.

The applicant is required to provide the above improvement. Public works concept approval and financial guarantee is required prior to approval of the final plat.

With the required street frontage improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided. With the conditions noted above this criterion is met

33.654.120.H. Street Trees

The City Forester reviews this land division proposal for its impact on existing street trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Trees Code.

Existing Street Conditions:

- SE Flavel Drive: There is approximately 53 feet of street frontage. The right-of-way is improved with pavement only. There are overhead high voltage power lines. There are no street trees.

Street Tree Planting (11.50.060.C): One street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum of 1.5 caliper inches and be a species chosen from an approved street tree list. Street tree planting may be exempt under 11.50.060.B when existing above or below utilities prevent planting street trees or when the existing planting strip is less than 3-feet wide. Also, street trees may not be required due to the existing condition of the right-of-way. Street trees are required to be planted through building permit or public works permit.

Urban Forestry comments are summarized below:

The applicant has not provided a conceptual street tree planting plan. Prior to the lot division there is room for two street trees. After the proposed lot division, there will only be room for one (1) street tree. A fee is required for the permanent loss of available street tree planting space.

Urban Forestry has no objections to this land division proposal subject to a fee in lieu of planting is required for the permanent loss of one street tree planting space. This fee is required to be paid prior to final plat approval. With this condition, this criterion is met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent rights-of-way can be provided on the final plat. At this time no specific utility

easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards 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

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 2.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The land use proposal indicates that the existing single-family residence will be removed. A separate building permit is required for the demolition of the existing single-family residence. The requirement is based on the 2017 Oregon Residential Specialty Code (ORSC), henceforward Building Code. The applicant is required to obtain a

building permit to remove the existing house will need obtained, receive all inspections and a final prior to final plat approval.

- The Fire Bureau responded with requirements in Exhibit E.4. The Fire Bureau has requirements for fire apparatus access to the flag lot (Parcel 2), including turning radius, surfacing, access width and no parking signs. Prior to final plat approval the applicant will be required to address Fire Bureau requirements for Fire apparatus access or the applicant may utilize the exception which requires internal fire suppression sprinklers on Parcel 2. If the exception is utilized, then the applicant would record an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2. Additional, Fire Bureau requirements include addressing and aerial fire access. These requirements are based on the technical standards of Title 31 and the 2016 Portland Fire Code.
- Curb cuts and driveway (Title 17.28): Curb-cuts and driveway construction must meet the requirements in Title 17.28. The Title 17 driveway requirements will be enforced during the review of building permits. Shared access located on the flag pole portion of proposed parcel 2 will be required as a condition of approval. Forward motion ingress and egress is required. The applicant will be required to provide a turning movement analysis for Parcel 1 to show forward motion egress prior to building permit approval.

CONCLUSIONS

The applicant has proposed a two-lot partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The site is within a designated potential landslide hazard area, however by following the recommendations provided by Certified Engineering Geologist and a Geotechnical Engineer the site can be developed safely with limiting the impact to slope stability on site and adjacent properties. Fire apparatus access and turnaround for future development on Parcel 2 will need to meet Fire Bureau requirements. The existing street infrastructure currently does not meet the City's standards, so frontage improvement is required to meet City standards along this frontage. A Public Works permit, WT 19-185436, for this frontage improvements received 30% Concept Development Design approval. Tree preservation of high priority size native trees were reviewed in association to this proposal and the City requested Tree #103 a 29-inch Douglas Fir be preserved in addition to the others. The access pole for Parcel 2 (flag lot) is now located to the north, which assists in sight distance for vehicle access on to SE Flavel Drive. PBOT requires both parcels to share the access pole and that ingress/egress from the site is in a forward motion.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a Two-parcel partition, that will result in a single dwelling standard lot (Parcel 1) and a Flag Lot (Parcel 2) as illustrated with Exhibit C.1 & C.2, subject to the following conditions:

A. The final plat must show the following:

1. 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.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition B.6 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.”

B. 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 apply for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements

Fire Apparatus Access

2. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2 (Flag Lot), as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 2 (Flag Lot) if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

3. A finalized permit must be obtained for demolition of the existing residence and accessory structures (including the remainder of the existing driveway) on the site and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures. Additionally, the City’s Deconstruction ordinance applies to houses built in 1916 or earlier and/or designated historic resources. (if demo work is within the RPZ of a protected tree). Prior to issuance of the demolition permit, the applicant must provide the final arborist report as required by Condition B.8. The site plan for the demolition permit must show all trees to be preserved and root protection zones as shown on the final tree preservation plan required by Condition B.8. All demolition work must be in conformance with the recommendations in the applicant’s arborist report and tree preservation plan. An arborist is required to be on site during the removal of the existing driveway and to ensure the protection of Tree 103. The applicant must provide a service contract for the arborist services to be on-site during the removal of the driveway prior to approval of the demolition permits. This service contract must meet Title 11 requirements.
4. Protection of off-site trees per the final arborist report.
5. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system/cesspool on the site.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Private Access Easement over the access pole described in Condition A.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the City accepted approved Final Tree Preservation Plan and arborist

report (submitted with the final plat) must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements

8. A revised final arborist report and revised tree preservation plan must be submitted to reflect Tree #103-Douglas Fir being included as part of the tree preservation plan on the site. The arborist must provide a specific alternative root protection zone for tree #103 and #102, and address any utilities being proposed within the root-protection zone of any trees being required to be preserved for this land division proposal. Also, the arborist report must address how the adjacent neighboring off-site trees will be protected during the removal of the existing structures (house and detached garage).
9. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 inches of trees for the permanent loss of one available street tree planting space. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Final Tree Preservation Plan submitted at the time of final plat and the applicant's arborist report submitted at the time of final plat. Specifically, the following trees are required to be preserved for this land division proposal:
 - # 102- Douglas Fir (19-inch)
 - # 103- Douglas Fir (29-inch)
 - # 104- Incense Cedar (30-inch)
 - # 109-Western Red Cedar (12-inch)
 - # 110-Western Red Cedar (11-inch)
 - # 111-English Walnut (31-inch)

The tree protection fencing shall be installed per the arborist report submitted at the time of final plat. Tree protection fencing is required along the root protection zone of the trees to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.

For the demolition permit for the existing house, detached garage and removal of the driveway please refer to Condition B.3 above for specific tree preservation requirements.

2. 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.
3. If required, the applicant will be required to meet any Fire Bureau requirements identified by Condition B.2; and post the flag pole drive with no parking signs. If the exception for Fire Access is utilized by the applicant. Then at time of development of Parcel 2, the applicant will be required to install residential sprinklers in the new dwelling unit on Parcel 2. Please refer to the final plat approval report for details on whether or not this requirement applies.

4. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measure to the bottom of the eave of the structure or the top of the parapet for a flat roof.
5. Vehicle access to Parcel 1 must be from the flag pole of Parcel 2. A driveway is not allowed along the frontage of Parcel 1.
6. The applicant will be required to meet PBOT requirements to provide a turning movement analysis for Parcel 1 to show forward motion egress prior to building permit approval.

Staff Planner: Lois Jennings



Decision rendered by: _____ **on August 12, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed August 14, 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 May 24, 2018 and was determined to be complete on October 25, 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 May 24, 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 245 days (Exhibit G.5), the maximum allowance. This extension to the 120-day timeline **will expire on October 25, 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 August 28, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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 .

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.**

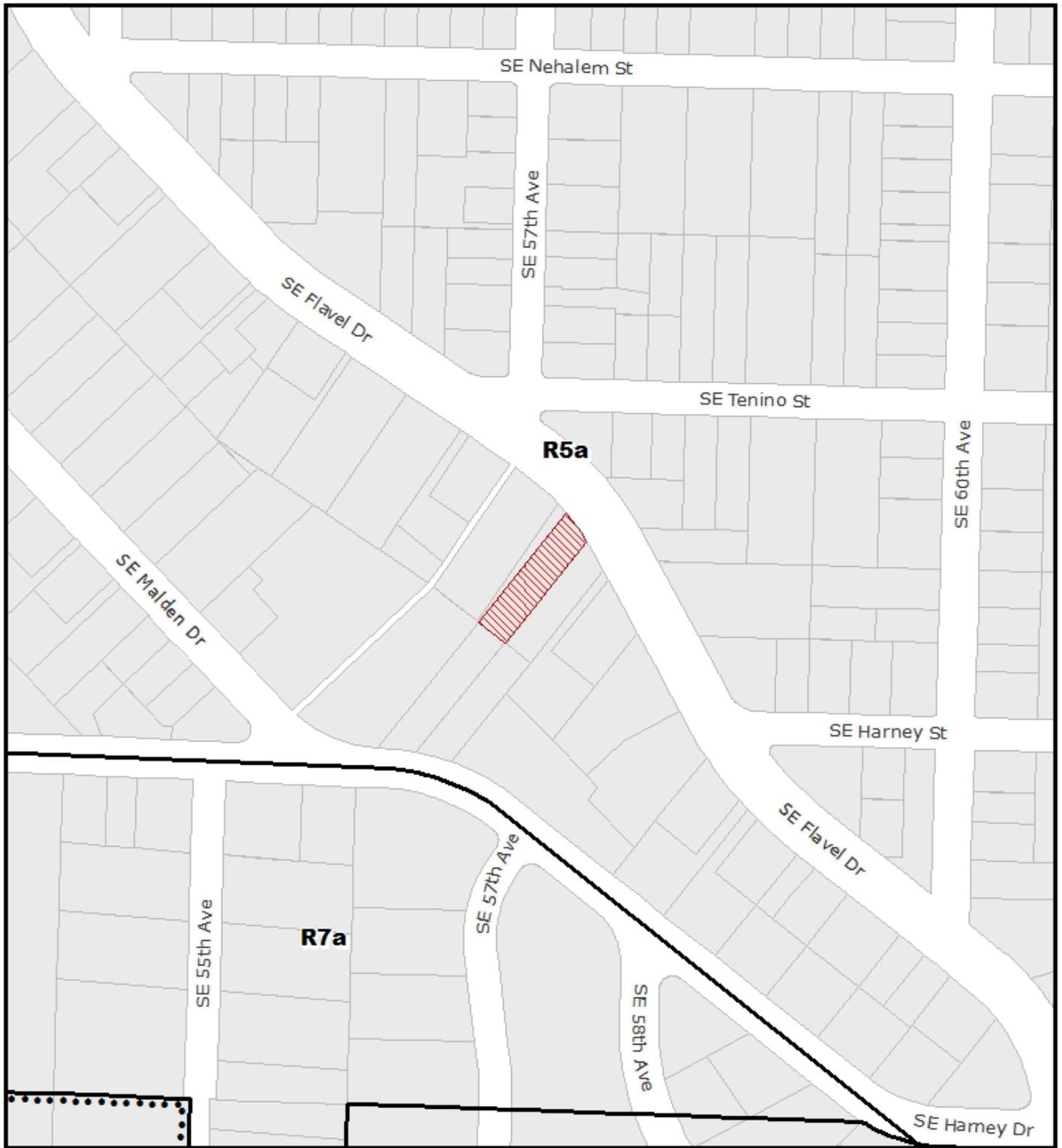
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Existing Conditions dated May 19, 2018
 - 2. Proposed preliminary plan dated May 19, 2018
 - 3. City Wide Tree Service Tree Report dated May 22, 2018
 - 4. Deed Information
 - 5. Additional Deed information submitted August 9, 2018
 - 6. Darlington Plat 3 map
 - 7. Geotechnical Report by Rapid Solutions
 - 8. Neighborhood Contact Documentation
 - 9. Addition information from City Wide Tree Service
 - 10. Strata Land Use Planning cover letter in response to incomplete items
 - 11. Narrative addressing approval criteria
 - 12. Honl Tree Care Arborist Report dated May 14, 2019
 - 13. Landslide Hazard Assessment dated May 15, 2019
 - 14. Rapid Solutions Geotechnical Report dated May 21, 2018
 - 15. Fire Hydrant Flow Information
 - 16. Metro GIS map
 - 17. Ztech Engineers Preliminary Site Plan
 - 18. Information regarding Mia Mahedy Geotechnical Engineer certifications
 - 19. Honl Tree Care Report dated May 22, 2019
 - 20. Honl Tree Care Report date July 17, 2019
 - 21. Honl Tree Care Report dated July 24, 2019
 - 22. ZTech Engineers Inc Preliminary On-site Stormwater Management Report
 - 23. Preliminary survey by Ferguson Surveying
 - 24. ZTech preliminary site, proposed improvement/tree preservation plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. ZTech Preliminary Proposed Improvement Site, Utility & tree preservation plan (attached)
 - 2. Preliminary Survey site plan submitted
 - 3. Ztech Preliminary Plan showing access pole to the south
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services-December 3, 2018 response
 - a. BES response dated August 6, 2019
 - 2. Bureau of Transportation Engineering and Development Review -November 26, 2018
 - a. PBOT Response dated July 17, 2019
 - b. PBOT Admended response dated August 8, 2019
 - 3. Water Bureau response dated December 4, 2018
 - a. Water Bureau response dated August 5, 2019
 - 4. Fire Bureau response dated December 4, 2018
 - a. Fire Bureau response dated August 7, 2019
 - 5. Site Development Review Section of BDS response dated November 29, 2018
 - a. Site Development response dated July 10, 2019
 - b. Site Development response dated August 5, 2019
 - 6. Bureau of Parks, Forestry Division dated November 26, 2018
 - a. Urban Forestry response dated July 31, 2019
 - 7. Life Safety Section of BDS
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete letter dated June 19, 2018
 - 3. Lot of Record notes with e-mail dated August 22, 2018
 - 4. E-mail with Service Bureau Comments and outstanding issues
 - 5. Signed Request for Extension to 120-Day Review Period

6. Memo to applicant dated July 25, 2019
7. E-mail Communication with applicant from April 2019 to August 2019
8. E-mail from Surveyor verifying lot areas

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



File No.	<u>LU 18-176880 LDP</u>
1/4 Section	<u>3836</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S2E19DD 10200</u>
Exhibit	<u>B Jun 01, 2018</u>

