



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

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Date: September 25, 2019
To: Interested Person
From: Diane Hale, Land Use Services
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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 19-107677 LDP
UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Applicant's Representative: Andrew Tull, 3J Consulting Inc. (503) 545-1907
5075 SW Griffith Dr, Ste 150 / Beaverton OR 97005

Applicant: Laura Mittelstadt, Lewis J. Inkster Jr Trust
Po Box 696 / Lake Oswego, OR 97034

Owner: Lewis J. Inkster Jr Trust
Po Box 665 / Bend, OR 97709

Site Address: Vacan lot to the south of 630 SW Englewood Dr
Legal Description: LOT 23&24 TL 1001, ENGLEWOOD RPLT
Tax Account No.: R252502870
State ID No.: 1S1E33DD 01001
Quarter Section: 4228
Neighborhood: No City of Portland recognized association. Englewood Neighborhood Association contact: Gary Cardwell (503) 969-8938

Business District: None
District Coalition: None
Plan District: None
Other Designations: Unincorporated Multnomah County
Zoning: RF (Residential Farm/Forest)
Case Type: LDP (Land Division Partition)
Procedure: Type IIX, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing a 2-parcel partition for this 174,448 square foot lot. The existing development (stables) on the lot will be removed. Parcel 1 will be 88,758 square feet, and Parcel 2 will be 81,597 square feet. The applicant is proposing to preserve all of the trees on the site. A dedication of right-of-way is required along the site's frontage to accommodate potential future

improvements (e.g. sidewalk); improvements for SW Englewood Drive will be evaluated at the time of building permit review. The applicant is proposing individual wells for water service, private septic systems for sewer service, and stormwater basins that discharge to a drainage ditch along the site's frontage for stormwater service. Multnomah County is requiring drainage ditch improvements at the time of building permit review. Future development is not part of the land use review other than to verify that conceptual development can be served by utilities and meet development standards.

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 2 units of land (2 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 site is a 4-acre parcel located in unincorporated Multnomah County. SW Boones Ferry Road is located ~ ½ mile to the west. The surrounding area is characterized by low density single-dwelling development and a non-grid street pattern with limited connectivity. Tryon Creek State Natural Area is located to the east of the site.

Infrastructure:

- **Streets** – The site has approximately 363 feet of frontage on SW Englewood Drive. There is one unimproved driveway entering the site. SW Englewood Drive is under the jurisdiction of Multnomah County, and is classified as a Local Access road. At this location, SW Englewood Drive is 40 feet wide with a variable paving width. There are no curbs or sidewalks. Tri-Met provides transit service approximately ½ mile away at SW Boones Ferry Road via Bus 38.
- **Water Service** – There is an existing 8-inch water main in SW Englewood Drive that extends approximately 80 feet into the site's frontage.
- **Sanitary Service** - There is no public sanitary sewer line currently available to this property.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The RF zone designation is intended for agricultural and forested areas in the city which are presently deficient in public services. Agriculture, forestry, and extremely low-density single-dwelling residential will be primary uses.

Land Use History: City records indicate there are no prior land use reviews for this site. The subject site was reestablished through a lot confirmation process in 2018 (18-107921 PR).

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 25, 2019**. Two written responses have been received in response to the proposal. City of Portland staff met with neighbors at the site on May 21st, 2019 to discuss a variety of concerns related to

the proposal, and City of Portland and Multnomah County staff met with neighbors on July 25, 2019 to further discuss concerns about stormwater management and transportation impacts on SW Englewood Road. The applicant hosted a neighborhood meeting on May 29, 2019 to share information and answer questions about the proposal. City/County Staff did not attend the May 29, 2019 meeting.

Neighborhood concerns, along with staff responses, are below. Also see the applicant's response to the neighborhood comments (Exhibit A.5):

1. The neighborhood does have an Association, the Englewood Neighborhood Association (ENA).
 - Staff believes that this comment is in response to the fact that the Notice of Proposal did not list Englewood Neighborhood Association as the area neighborhood association. The City of Portland has a network of recognized Neighborhood Associations and District Coalitions that are used for land use notification purposes. This site is not located within a City of Portland recognized neighborhood or district coalition. Area residents made staff aware of the Englewood Neighborhood Association and staff had several conversations with the Englewood Neighborhood Association president and vice-president.
2. Will there be another partition request for this site in the future?
 - The applicant's response to the neighborhood association's letter notes that the applicant does not plan to submit another partition request within the next 5 years.
3. Parcel 2 does not meet the minimum lot area of 87,120 sq ft for the RF zone.
 - The minimum lot area in the RF zone is 52,000 square feet. Lots may vary between 52,000 and 151,000 square feet, provided the maximum density of 1 unit per 87,120 square feet is met. The proposal meets the standard.
4. SW Englewood Drive is a country road that is in disrepair and is maintained by current home owners. 2 new homes/4 new vehicles will cause great damage. Where will the construction vehicles park during development of the new homes? The applicant should be required to submit a traffic and parking plan as part of the application. The applicant should potentially be required to widen the road at their expense. Substantial consideration should be given to ENA as the residents of this neighborhood that are responsible for maintaining the road.
 - SW Englewood Drive is under Multnomah County jurisdiction. The need for frontage improvements will be evaluated with the future building permits for the site. The applicant will be required to dedicate 10 feet for right-of-way with this land division, which would accommodate the standard improvements for a Multnomah County Local Access Road. Please see Section K, Transportation Impacts, and Section L (3.654.120.B and C) for detailed findings related to transportation standards, criteria and impacts. Staff encourages neighbors to continue to work with Multnomah County regarding concerns about stormwater management and transportation impacts for SW Englewood Drive. The County Transportation Planning Department is available at (503) 988-5050.
5. The stormwater plans for the new homes will cause issues for the area properties. The existing drainage ditch in SW Englewood Drive is not functional now.
 - SW Englewood Drive is under Multnomah County jurisdiction. County staff reviewed the proposal and noted that the drainage ditch, which is the proposed discharge location for stormwater, is "virtually non-existent". The County is requiring that the drainage ditch be improved prior to building permit approval. Please see Section L (33.653.020 and 030) below for a detailed discussion of the stormwater management proposal and requirements. Staff encourages neighbors to continue to work with Multnomah County regarding concerns about stormwater management and transportation impacts for SW Englewood Drive. The County Transportation Planning Department is available at (503) 988-5050.
6. Will the private well proposal for the partition cause a burden to the aquifer as there are 2 other nearby homes that currently use a well?
 - The State of Oregon Water Resources Department (ORWD) has jurisdiction over private wells. ORWD responded to the neighborhood concerns, noting that the pump tests yielded results that should be more than adequate to provide domestic water for the new homes, and that the few other well logs found in the area suggest similar yields. They noted that there is no evidence that the wells in the area have

had any long-term production issues. They further recommended that neighbors with concerns should have a static water level measurement made for their wells annually in the same month each year – this information can be useful when trying to determine if there is an interference issue. See Exhibit E.8 for more information.

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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
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.
	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 RF through R5 zones. Based on the applicant's survey, the site area is 174,448 square feet. The maximum density in the RF zone is one unit per 87,120 square feet. Minimum density is one unit per 87,120 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 and a minimum required density of 0 units. The applicant is proposing 2 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
RF Zone	52,000	151,000	60	60	30
Parcel 1	88,758		189	403	189.2
Parcel 2	81,597		196	451	196.8

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

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

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

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

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

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 an existing conditions survey (Exhibit C.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.12) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root

protection zone and tree protection measures for each tree to be preserved. In addition to the regulated trees on the site, the arborist report includes an analysis of many trees that are on adjacent property to the north owned in common with the subject land division site. Staff notes that trees that are fully or partially on the land division site are subject to the regulations in 33.630.

Based on this information, 21 trees, which provide a total of 506 inches of tree diameter, are subject to the preservation requirements of this chapter. Ten of these trees are over 20" in diameter, and several of the trees are native species. The applicant proposes to retain all of the trees on the site, therefore the proposal complies with Options 1, 2 and 3 of the tree preservation standards in 33.630.100:

Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.

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

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.

The trees proposed for preservation are in good condition, include native/non-nuisance species, and ten of the trees are 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the RF zone and will not conflict with any existing utility easements, proposed services or site grading.

Many of the trees shown on Exhibit C.2 are located in the Englewood Drive right-of-way and are therefore subject to Multnomah County jurisdiction; impacts or required protection of street trees will be reviewed at the time of building permit review.

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

In order to ensure that future owners of Parcels 1 and 2 are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.3) and the Arborist Report (Exhibit A.12).

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

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

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

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

In order to evaluate the proposal against this criteria, the applicant has submitted a Landslide Hazard Study of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.9).

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 identifies some site constraints, including the presence of low permeability soils and undocumented fill, but indicates that the site is suitable for development and the proposal reasonably limits the risk of landslide potential on the site and other properties in the vicinity given the soil composition, topography, and other risk factors. Site Development notes that further geotechnical evaluation may be required for specific building plans at the time of construction plan review.

Based on these factors, this criterion is met.

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

Findings: 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.

The site is located in the Potential Landslide Hazard area. The applicant submitted a Preliminary Clearing and Grading Plan (Exhibit C.4) and a Landslide Hazard Report (Exhibit A.9) that notes the proposed building sites are situated on a gently sloping ridge with grades of approximately 5 to 20 percent.

The proposed clearing and grading shown on Exhibit C.4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level building site. The clearing and grading proposed is sufficient for the preparation of the lots, without being excessive. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new homes will be appropriately managed through lined basins that discharge to a drainage ditch in SW Englewood Drive to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The applicant also provided a Tree Protection Plan (Exhibit C.3) that designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved, and an arborist report (Exhibit A.12) that further discusses grading on the site. No clearing and grading is proposed within the root protection zones of the trees to be preserved.

The limits of disturbance are the site boundaries; they will allow for a reasonable maneuvering area for earth-moving equipment needed to create level building sites and an adequate area to stockpile excess material. The limits of disturbance will also allow for the existing accessory structure on the site to be demolished and any debris associated with the building to be removed. The clearing and grading plan indicates an area for general stockpiling that is located outside of the root protection zones of the trees on the site to be preserved.

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, the Site Development Section of the Bureau of Development Services will review the proposed clearing, grading and erosion control for the individual lots. 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. This criteria is met.

Land Suitability The site is currently in residential use, and there is no record of any other use in the past. The south lot previously supported a single-family residence, with the exact location unknown. This previously demolished residence was served by an onsite sewage disposal system. Prior to building permit issuance, a signed Disclaimer for Existing Onsite Sewage Disposal System will be required. If a septic feature is found during construction, a decommissioning permit must be obtained, and the septic feature decommissioned per OAR 340-071-0185. With a condition requiring these actions, the new lots can be considered suitable for new development and this criterion is met.

The site recently contained an accessory structure (stables) as shown on the existing conditions plan (Exhibit C.3), that has subsequently been removed. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of the structure that was recently removed from the site prior to final plat approval. If it is determined that a building permit is not required for the removal, the applicant must submit before and after pictures of the site to verify that the structure has been removed. With this condition, the new lots can be considered suitable for development, and 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: 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.

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

The subject site is located on SW Englewood Drive which is under the jurisdiction of Multnomah County and the County considers SW Englewood a Local Access Road. The subject site is located within an area of unincorporated Multnomah County governed by an existing interlocal agreement (Ordinance 176115) that transfers responsibilities for implementing and administering comprehensive plan and zoning regulations from the County to the City for properties located within the City's Urban Growth Boundary. This includes assuming land division authority and responsibility.

The applicant is proposing a 2-parcel partition which will facilitate the development of this site with two single family homes. For the purposes of evaluating the potential impact of this partition in relation to the land division approval criteria, PBOT utilized trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition. The 2 new homes expected to be built with this project are estimated to generate 2 additional vehicle trips during both the morning and evening peak hours and 20 additional total daily trips. As such, the proposal will result in an impact. However, the minor number of vehicle trips that will be added into the transportation system as a result of the proposed subdivision will not adversely impact the operations of area intersections. The proposed lots will be developed with on-site parking which will minimize the impact to and the need for on-street parking in this area and the addition of 2 homes will not negatively impact transit service in the area.

SW Englewood is a low-volume, low-speed rural residential street serving approximately 30 single family homes. Except for the subject site, there are minimal opportunities for additional residential development along this roadway and the existing environment with vehicles, bikes, and pedestrians sharing the roadway is expected to remain unchanged. The proposed development is expected to add a small number of additional vehicles/bikes/pedestrian trips to SW Englewood that will not negatively impact the streets' operation as a shared roadway. The applicant will be required to dedicate property for ROW purposes to facilitate County road improvements in the future should they become necessary.

PBOT has reviewed and concurs with the information supplied and available evidence, including the applicant's traffic impact memorandum (Exhibit A.11). No mitigation is necessary for the transportation system to be capable of supporting the proposed development at this time. However, dedication is required to accommodate future potential improvements. 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 Exhibits A.13 and E.8</p>
<p>The Water Bureau has indicated that service is available to serve Parcel 1, as noted on page 2 of this report. Service is not available to Parcel 2. The applicant proposed and drilled private wells to serve both Parcels 1 and 2. The State of Oregon Water Resources Department visited the site during the well drilling operation and noted that the well pump tests demonstrate that the wells should be more than adequate to provide domestic water for the future homes on Parcels 1 and 2 (Exhibit E.8). This criterion is met.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.5 for detailed comments.</p>
<p>There are no public sanitary sewers available to serve the proposed lots. The Site Development Section of the Bureau of Development Services has approved the use of on-site sanitary sewage disposal systems. Both proposed lots have shown approvable conceptual development layouts for a 4-bedroom single-family residence, including two full primary and repair drainfield areas with groundwater interceptors that meet all required setbacks specified in OAR 340-071-0220 (Table 1) and the conditions of the approved Site Evaluation Reports SER 43-18 (north lot) and SER 44-18 (south lot) (Exhibit A.10).</p>
<p>The south lot previously supported a single-family residence, with the exact location unknown. This previously demolished residence was served by an onsite sewage disposal system. Prior to building permit issuance, a signed Disclaimer for Existing Onsite Sewage Disposal System will be required. If a septic feature is found during construction, a decommissioning permit must be obtained and the septic feature decommissioned per OAR 340-071-0185. The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 & E.8</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p>
<p>The applicant has proposed the following stormwater management methods: The applicant submitted a stormwater report from 3J Consulting (April 11, 2019) and a Geotechnical Report and Landslide Hazard Study (LHS) and memo from GeoPacific (January 21, 2019 and April 19, 2019). The Geotechnical Report includes infiltration test results of 0 inches per hour and recommends against infiltrating post-development stormwater runoff onsite. The applicant proposes to discharge runoff offsite to the ditch in SW Englewood Drive after pollution reduction and flow and volume control standards are met with vegetated</p>

basins sized per the Performance Approach. BES has reviewed the proposal and determined that the facilities meet SWMM requirements.

SW Englewood Drive is owned and maintained by Multnomah County, which provided the following findings regarding the stormwater proposal and discharge location:

The [proposed] development meets the County stormwater requirement per the County's adapted manual the City of Portland's 2016 Stormwater Management Manual (SWMM). The stormwater report exhibits that the development will maintain post-development peak flow rates at the pre-developed levels or better for the 5, 10, and 25-year storm as well as detain up to 100 -year storm event therefore showing that the proposed condition will either maintain or improve current existing off-site stormwater conditions.

The report also identifies that the proposed development will [drain] to an earthen drainage ditch located in the County right-of-way. Based on a site visit, the ditch is almost non-existent. To alleviate the impact of stormwater from the proposed development to the adjacent properties, the developer shall size and improve the ditch accordingly at the frontage of the subject property during the final design and before construction [of the new homes] occurs. A culvert pipe with a minimum diameter of 12" shall also be installed under the driveway.

With a condition of approval requiring ditch improvements prior to building permit approval as noted above, these criteria and standards are 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 area in which the subject property is located does not meet the noted spacing requirements. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. There is no practicable opportunity to provide them in this land division.

In addition, no street connections have been identified in the vicinity of this site in the Portland 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 and E.8 for additional comments

SW Englewood Drive is owned and under the jurisdiction of Multnomah County, and is functionally classified as a Local Access road. The standard width for a Local Access road is 60 feet total, 30 feet from the road centerline to adjacent property lines. SW Englewood Drive is currently 40 feet wide. The applicant will need to dedicate 10' of right-of-way along the site's frontage to meet the standard width for a Local Access road. As noted in Section K above, SW Englewood Road is a rural residential road and the existing configuration of elements within the right-of-way currently serves the expected users, which are area residents and their visitors. No improvements are required at this time. Any improvements that would be necessary to accommodate future development on the site will be evaluated by the County with future building permits.

This criterion is met, with the condition that the required right-of-way dedication is shown on the Final Plat.

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

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review. 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 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 RF zone. Therefore, this land division proposal can meet the requirements of 33.700.015. A condition of approval is required to verify that all development has been removed prior to final plat approval.

OTHER TECHNICAL REQUIREMENTS

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

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 site is located within the Lake Oswego Fire District. Lake Oswego Fire determined that the fire apparatus access standards could not be met for the proposal. The applicant received approval of fire code appeal #20768 that proposed installing residential sprinklers in the new homes as an alternative method of fire protection (Exhibit E.4). A condition of approval is required to ensure that sprinklers are installed in accordance with the approved appeal. At the time of building permit review the applicant must also meet all other fire standards to the satisfaction of the Lake Oswego Fire District.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions for right-of-way dedication, removal of on-site structures, drainage ditch improvements and compliance with fire standards. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in 2 single dwelling parcels for detached homes as illustrated with Exhibits C.1-C.5, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of Multnomah County Transportation for SW Englewood Drive. The required right-of-way dedication must be shown on the final plat.
2. A recording block for each of the legal documents such as maintenance agreements, acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.2 and B.3 below. The recording blocks 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."

B. The following must occur prior to Final Plat approval:

Existing Development

1. The applicant must obtain a finalized demolition permit for removal of the accessory structure on Parcel 2. If it is determined that a building permit is not required for the removal, the applicant must submit before and after pictures of the site to verify that the structure has been removed.

Required Legal Documents

2. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcels 1 and 2 to contain internal fire suppression sprinklers, per Fire Bureau Appeal no 20768. The acknowledgement shall be referenced on and recorded with the final plat.
3. 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 approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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 Tree Preservation Plan (Exhibit C.3) and the applicant's arborist report (Exhibit A.12). Specifically, all trees on Parcels 1 and 2, as shown on Exhibit C.3, are required to be preserved, with the root protection zones indicated on Exhibit C.3. 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, as written today, including a performance path approach.
2. The applicant shall meet Multnomah County requirements to make stormwater improvements in SW Englewood Drive to allow offsite disposal.
3. The applicant will be required to install residential sprinklers in the new houses on Parcels 1 and 2 per appeal ID# 20768.
4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for submitting a signed Disclaimer for Existing Onsite Sewage Disposal System. If a septic feature is found during construction, a decommissioning permit must be obtained, and the septic feature decommissioned per OAR 340-071-0185.

Staff Planner: Diane Hale

Decision rendered by: Deane Hale on September 23, 2019
By authority of the Director of the Bureau of Development Services

Decision mailed September 25, 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 16, 2019, and was determined to be complete on April 19, 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 16, 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 116 days. Unless further extended by the applicant, **the 120 days will expire on December 11, 2019 (Exhibit G.4).**

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 October 9, 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.

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

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal

to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us .

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. Applicant's original submittal and plans
 - 2. Applicant's response, January 31, 2019
 - 3. Applicant's response, April 19, 2019
 - 4. Applicant's response, April 24, 2019
 - 5. Applicant's response, May 24, 2019
 - 6. Applicant's response, July 22, 2019
 - 7. Applicant's response, September 13, 2019
 - 8. School district letter
 - 9. Stormwater and Geotechnical Report
 - 10. Septic Site Evaluation Report
 - 11. Transportation Impacts Memorandum
 - 12. Arborist report and tree narrative
 - 13. Private well information
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Conceptual Site Plan (attached)
 - 2. Existing Conditions Map
 - 3. Tree Preservation Plan
 - 4. Conceptual Clearing and Grading Plan
 - 5. Preliminary Plat
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Portland Bureau of Environmental Services
 - 2. Portland Bureau of Transportation Engineering and Development Review
 - 3. Portland Water Bureau
 - 4. Lake Oswego Fire Department
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
 - 7. Multnomah County Planning

8. Oregon Water Resources Department

F. Correspondence:

1. Englewood Neighborhood Association, May 10, 2019
2. Englewood Neighborhood Association, May 21, 2019
3. Englewood Neighborhood Association, May 28, 2019

G. Other:

1. Original LU Application
2. Expedited Land Division Form
3. Incomplete Letter
4. Extension Form

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).

