



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: October 14, 2019
To: Interested Person
From: Diane Hale, Land Use Services
503-823-7705 / Diane.Hale@portlandoregon.gov

NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 18-266139 LDP

GENERAL INFORMATION

Applicant's Representative: Tim Schierenbeck / Statewide Land Surveying Inc. / (503) 665-7777
500 NW 20th St # 101 / Gresham, OR 97030

Applicant/Owner: Dennis A Patera / Patera Revocable Living Trust
1983 SE Douglas Pl / Gresham, OR 97080

Site Address: 2215 SE 113TH AVE
Legal Description: BLOCK 1 LOT 9, LAMBERT GROVE
Tax Account No.: R467000250
State ID No.: 1S2E03DC 12100
Quarter Section: 3242
Neighborhood: Mill Park, contact Trevor Hopper at mill.park.pdx.chair@gmail.com
Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Community Office, contact Victor Salinas at 503-823-6694.

Zoning: R5a (Single Family Residential 5,000 with an "a" Alternative Design Density Overlay)

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

Proposal:

The site is a 15,029 square foot interior lot that is currently developed with a house constructed in 1946, a detached garage and 2 sheds. The applicant is proposing a 3-parcel partition for detached single-family homes (1 standard lot, 1 narrow lot and 1 flag lot). Parcels will range from 4,747 to 5,034 square feet. The applicant has proposed to retain the existing home on Parcel 1 and remove the detached garage. Off-street parking is proposed for all three new homes. Frontage improvements are not required with this land division, but a 3-foot right-of-way dedication is required to accommodate future improvements.

There are 16 trees on the site that are subject to the tree preservation requirements of 33.630 (including trees that are partially on the site). The applicant has proposed to preserve all of the trees. In order to improve the tree preservation proposal, the applicant has requested two modifications, which is allowed per 33.630.400: 1) modify the flag lot landscaping standard for Parcel 2 to minimize disturbance within the proposed root protection zone of trees 8 to 13 to be preserved; and 2) reduce the side (north) setback for Parcel 3 from 5 feet to 4 feet to accommodate a larger root protection zone for trees 7 and 8 that straddle the north lot line of the site. The modifications can be approved if they result in improved tree preservation and are consistent with the purpose of the regulation being modified.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create 3 units of land (3 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 approval criteria found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

FACTS

Site and Vicinity: The site is an interior lot developed with a house constructed in 1946, a detached garage and 2 sheds. There are several large trees on the site. The area surrounding the site is characterized generally by single-dwelling development. Higher density residential and commercial development is located along SE Division Street a few blocks south of the site. Kelly Butte Park is located ~1.2 miles to the southwest of the site, and Cherry City Park is located a few blocks to the northwest. Interstate I-205 is located almost a mile to the west of the site.

Infrastructure:

- **Streets** – The site has approximately 102 feet of frontage on SE 113th Avenue. There is one driveway entering the site that serves the existing house. At this location, SE 113th Ave is classified as a Local Service Street for all modes. It is a 50-ft wide right-of-way (ROW) improved with center strip paving lacking curbs and sidewalks. Tri Met Bus Line #2 is available to serve the site ~850 feet to the south at SE Division Street. Line #9 is $\frac{3}{4}$ mile away at SE Powell Blvd and 112th Avenue.
- **Water Service** – There is an existing 4-inch water main in SE 113th Avenue. The existing house is served by a 5/8-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary-only sewer line in SE 113th Avenue.
- **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 **June 18, 2019**. One written response has been received from the Neighborhood Association or notified property owners in response to the proposal (Exhibit F.1). The response noted concerns with the location of the parking pad for Parcel 3, and the potential for increased noise if 3 families with children move in. The applicant moved the proposed location for the parking for Parcel 3 in response to the comment (see Exhibit C.1 for new location). The Zoning Code does not regulate tenancy (who moves in), therefore that comment cannot be addressed through this review.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
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 15,029 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The site has a maximum density of 3 units and a minimum required density of 2 units. The applicant is proposing 3 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	4940		57.78	88.9	57,78	NA	NA
Parcel 2	3993 w/out pole 5034 w/pole		NA	NA	NA	68	58
Parcel 3	4747		33	146.90	33	NA	NA

* 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.

Narrow Lots

Parcel 3 is 33 feet wide — narrower than the minimum width for the R5 zone, as shown in the table above. The Zoning Code allows narrower lots if the future development can meet the regulations of Section 33.610.200.D.

On balance, the proposed lots will have dimensions that are consistent with the purpose of the Lot Dimension Regulations.

The purpose of Lot dimension regulations are as follows:

The lot dimension regulations ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not so large that they seem

to be able to be further divided to exceed the maximum allowed density of the site in the future; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The applicant has demonstrated that proposed Parcel 3 is consistent with the purpose of lot dimension regulations for the following reasons:

- The applicant has provided an example of a building footprint that meets all applicable setback requirements as modified to better preserve trees and is oriented towards the street. Therefore they have demonstrated that the proposed lot can accommodate a reasonably sized house while meeting the development standards of the zoning code;
- The applicant has provided a preliminary utility plan that demonstrates that each lot has access for utilities and services;
- Proposed Parcel 3 is compatible with existing lots because there is a wide range of lot dimensions represented in the surrounding development. Within 300 feet of the site there are several flag lots, large lots and narrow lots, including 2 lots that are 32 feet wide ~ 100 feet away from the subject site. Proposed Parcel 3 meets the lot area and depth standard, and is proposed to be 33 feet wide;
- The proposed lot is not landlocked nor does it narrow to an unbuildable width close to the street; and
- The proposed lot is regularly shaped.

The minimum width for lots that will be developed with detached houses may not be reduced below 25 feet

- The proposed parcel is at least 25 feet wide.

If the lot abuts an alley, then vehicle access is allowed only from the alley

- The site does not have access from an alley, so this standard does not apply.

Lots must be configured so that development on the site will be able to meet the garage limitation standard of Subsection 33.110.253.D at the time of development

- The applicant is not proposing an attached garage with the conceptual development shown on Exhibit C.1. The applicant is proposing off-street parking via a shared driveway on Parcel 2 and a parking pad for Parcel 3. However, Parcel 3 is wide enough to be developed with a house that is greater than 22 feet in width, and therefore could accommodate a garage that would occupy no more than 50% of the length of the street facing façade. The garage limitation standards of Subsection 33.110.253.D can be met.

60 percent landscaping requirement for attached houses

- The applicant has indicated that the lots will be developed with detached houses; therefore, this requirement does not apply.

If parking is not required, alley access and garage limitation requirements do not have to be met if a covenant is provided.

- Parking is required. Therefore, alley access and the garage limitation requirements described above must be met.

Flag Lots

When allowed

In this case the applicant is proposing 3 parcels, only one of which is a flag lot (Parcel 2). The existing dwelling unit has been on the property for at least 5-years and is located so that it precludes a land division that meets minimum lot width standards. The minimum density standards are met. Therefore the thresholds for when a flag lot is allowed to be created have been met.

Dimensions

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

Vehicle Access

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

In this case, the flag portion of Parcel 2 will provide off street parking access for all three parcels. 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, and contributes to tree preservation by allowing the preservation of tree 7, which would otherwise likely be impacted to provide parking for the existing house on Parcel 1. An access easement will be placed over the entirety of the pole to allow shared access.

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 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.9) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 16 trees, which provide a total of 333 inches of tree diameter, are subject to the preservation requirements of this chapter. Seven of these trees are over 20” in diameter. The applicant is proposing to preserve trees 6 to 16, which represents 69% of the overall tree diameter and 71% of the trees over 20” in diameter on the site.

The applicant is also proposing to protect trees 1 to 5, located along the front lot line of Parcel 1. These trees will be located partially in the right-of-way following the land division due to the required dedication of property. The applicant is proposing to protect these trees during demolition of the accessory structures that will be removed from Parcel 3, installation of a new parking pad on Parcel 1, and construction of the new houses on Parcels 2 and 3. However, because trees 1 to 5 will be located within the right-of-way following the land division, protection of these trees does not impart any credit toward meeting one of the preservation standards of 33.630.100, and long-term preservation beyond construction of the new homes will be subject to Urban Forestry requirements.

The trees proposed for preservation are in good condition and include native/non-nuisance species. The proposed root protection zones for the trees to be preserved and protected are shown on Exhibit C.1. The arborist has noted a performance path preservation plan for the trees on the site.

For trees 8 to 13 to be preserved, the arborist outlines the following instructions (see Exhibit A.9 section titled "tree plan revision for land division"):

The owner intends to place a manufactured home on Parcel 2 upon $\frac{3}{4}$ minus crushed rock after scraping just the surface debris off and placing geotextile down to reduce compaction requirements, and to control weeds. Concrete blocks will be placed under the building as the foundation. No excavation will be needed for footings. Before construction can start, the tree protection fence must be installed according to Exhibit C.1 (prescriptive path spacing for the fence). With an arborist attending, the fence will be opened while the ground is prepared. The building will be wheeled into place on its own axles and jacket up while the axles are removed. The blocks will be put in place and the building will be lowered onto them. The fence will then terminate at the building.

The arborist outlined a similar protection approach for trees 1 to 5 that need to be protected in the near-term, as noted above:

Proposed plans call for a parking area composed of pervious pavers in Parcel 1. The street trees, T1 through T5, have prescriptive path RPZs (see Exhibit C.1). Approximately 5 feet of the RPZ area on the west side will be violated by the parking pad. The fence may be moved out of the proposed parking area when an arborist is present. Because it is a small area on the outskirts of the protected ground, the organic layer may be scraped off, crushed rock added over geotextile fabric, and the pavers may be installed. The bedding and rock base for pavers of this sort is typically 18 inches deep. Stormwater percolating into the base will be available to tree roots.

For shed removal on Parcel 3 that may impact trees 15 and 16, the arborist provided the following recommendations:

There is an existing shed in the southwest corner of Parcel 3 and it is within the RPZ for T16. The removal can be done by hand or with equipment such as a track hoe stationed beyond the RPZ. If the tree protection fence has been built before the shed is removed (which will be required), then an arborist must be on site when the fence is opened, and the fence must be restored after the removal.

The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading. The preservation plan meets Option 3 of the preservation standards:

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.

In order to ensure that future owners of Parcels 1, 2 and 3 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 noting that trees 6 to 16 will be preserved. The acknowledgement must identify that development on Parcels 1, 2 and 3 must be carried out

in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.9).

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.

1st modification

In order to improve the tree preservation proposal, the applicant has requested two modifications, the first of which is to modify the flag lot landscaped buffer standard of 33.110.240.F.2 for Parcel 2 to minimize disturbance within the proposed root protection zone of trees 8 to 13. The modification can be approved if it results in improved tree preservation and is consistent with the purpose of the regulation being modified.

The flag lot landscaped buffer area standard requires that landscaping be installed in an area at least 5 feet deep and be landscaped to at least the L3 standard. The L3 standard requires enough evergreen high shrubs to form a screen 6 feet high. In addition, one large tree is required per 30 linear feet of landscaped area, one medium tree per 22 linear feet of landscaped area, or one small tree per 15 linear feet of landscaped area. Ground cover plants must fully cover the remainder of the landscaped area.

Meeting the standard would require the installation of trees, shrubs and groundcover plants along the northern and western 5 feet of Parcel 2, which is within the prescriptive root protection zone of the trees that will be preserved, many of which are large Douglas Fir trees. The installation of the required plants would disturb the ground in the vicinity of the trees to be preserved, and as the required trees grow, they would compete with the existing trees for air, light and soil space. Therefore, allowing the modification to the landscaping standard would prevent this competition and disturbance for the existing trees to be preserved, thereby improving the tree preservation proposal. Furthermore, the mature Douglas Fir trees to be preserved will block rainfall and shade the new plants, generally inhibiting ideal growing conditions for the new plants.

Flag lots are allowed in single-dwelling zones through the Alternative Development Options (33.110.240), which allow a variety of different structure types and site configurations in certain circumstances. The purpose statement of the Alternative Development Options sections is as follows:

33.110.240.A - The alternative development options allow for variety in development standards while maintaining the overall character of a single-dwelling neighborhood. These options have several public benefits:

- *They allow for development that is sensitive to the environment, especially in hilly areas and areas with water features and natural drainageways;*
 - *They allow for the preservation of open and natural areas;*
 - *They promote better site layout and opportunities for private recreational areas;*
 - *They promote opportunities for affordable housing;*
 - *They promote energy-efficient development;*
 - *They allow for the provision of alternative structure types where density standards are met;*
- and*
- *They reduce the impact that new development may have on surrounding residential development.*

The primary purpose of the flag lot development standards is to protect the privacy of surrounding residences, as stated in the introduction to the development standards for flag lots:

33.110.240.F - The development standards for flag lots include specific screening and setback requirements to protect the privacy of abutting residences.

The applicant is proposing to preserve several trees along the western and northern lot lines for Parcel 2. The trees to be preserved along the western lot line are distributed such that

they form a fairly solid buffer between Parcel 2 and the adjacent site to the west. Along the north lot line there is one large tree (35" Douglas fir) that has a crown that extends ~30 feet. The existing trees provide a screen between the flag lot and adjacent lots for much of the area along the west and north lot lines. There are also fences located along these lot lines that provide additional screening.

The northwest and northeast corners of Parcel 2 are fairly open and can accommodate some landscaping. The arborist notes that the evergreen high shrubs can be planted along the east and west 14-foot section of the north lot line, and 1 new tree can be planted in each of these areas. Evergreen high shrubs can also be planted in the northern 20-foot section along the west lot line. Groundcover plants will not be required to minimize disturbance near the mature trees to be preserved. The required 10-foot flag lot setback will be maintained along these lot lines. The privacy of abutting residences will be protected with the existing trees and fences along these lot lines, the modified landscape buffer plantings as noted above, and the required setback. Therefore the modification can be approved.

2nd modification

The second requested modification is to reduce the side (north) setback for Parcel 3 from 5 feet to 4 feet. The modification can be approved if it results in improved tree preservation and is consistent with the purpose of the regulation being modified. The applicant's original proposal oriented the flag pole along the north lot line of the site rather than the middle of the site, which would have required that trees 6 and 8 be removed. The existing house that will remain on Parcel 1 is located approximately 20 feet from the north lot line and approximately 48 feet from the south lot line of the site. Although this spacing allows for the creation of 3 parcels, it provides limited flexibility for lot configuration given the required lot dimensions of the R5 zone. Notwithstanding the large trees located along the north lot line of the site, orienting the flag pole along the north side of the site provides the greatest flexibility in lot configuration and would allow one flag lot and 2 standard lots that meet lot width. Moving the flag pole for Parcel 2 to the middle of the site improves tree preservation, but it shrinks the developable lot area for Parcel 3. Modifying the north side setback for Parcel 3 by 1 foot provides more site design flexibility for development on Parcel 2 and allows the trees north of the house to be preserved. Therefore, approving the modification improves tree preservation.

The purpose of the setback regulation to be modified is as follows:

- *They maintain light, air, separation for fire protection, and access for fire fighting;*
- *They reflect the general building scale and placement of houses in the City's neighborhoods;*
- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*
- *They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

- *They maintain light, air, separation for fire protection, and access for firefighting;*

The proposed modification would reduce the north (side) lot line setback for future development on Parcel 3 from 5 feet to 4 feet. The flag pole for Parcel 2 is located directly to the north of this lot line. A 12 foot wide shared driveway with a permanent access easement will be located in the flag pole, and future development is not allowed on this part of Parcel 2. Parcel 1 to the north of the flag pole has a 3-foot required setback as allowed outright per 33.110.220.D.2. Therefore, there will effectively be a 19 foot "setback" between any development on Parcel 2 and the nearest development to the north (Parcel 1). This will provide adequate light, air and separation for fire protection. The proposed side setback reduction has no affect on access for firefighting for Parcel 3. The Portland Fire Bureau has reviewed the project and raised no concerns.

- *They reflect the general building scale and placement of houses in the City's neighborhoods;*

The proposed modification allows the future development on Parcel 3 to be 1 foot wider than the standard would allow. Although this is a negligible dimension, it does add to the ability of the future development to better reflect wider houses in the vicinity. The houses on the block are characterized by a variety of site placements, with variation among the setback distances. The modification will not cause this house to adversely affect the overall siting of homes in the area, particularly given the "setback" that will be provided by the flag pole to the north as mentioned above.

- *They promote a reasonable physical relationship between residences;*
- *They promote options for privacy for neighboring properties;*

A shared driveway for Parcels 1, 2 and 3 is located in the flag pole of Parcel 3 directly to the north of the internal property line. A permanent access easement will be recorded for these properties, and future development will be prohibited on this part of Parcel 3. Therefore, there will be at least 19 feet between the structure on Parcel 3 and a structure that could be built on the lot to the north of Parcel 2 (the flag lot). Because of this permanent separation, privacy and a reasonable physical relationship between residences will be maintained. On a typical R5 lot buildings can be 10 feet apart with 8 feet between eaves. The required 5-foot setback on the south side of Parcel 3 will be maintained.

- *They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*

The applicant has demonstrated that a house can be developed on Parcel 3 that is compatible with the site and neighborhood and allows for the required outdoor area as shown on Exhibit C.1.

- *They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

The setback modification is not directly related to the depth of the parking area. Therefore this element of the purpose statement is not applicable.

The findings above show this modification can be approved.

With the noted conditions above, these criteria are satisfied.

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

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

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

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, grading is not occurring within the RPZ of trees to be preserved. The arborist has allowed some encroachment into the RPZ of trees to be retained along the north and west lot lines of Parcel 2; however, grading is not part of the encroachment that is allowed. See section B, Trees, for more information. 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. Although the site is currently connected to the public sanitary sewer, there are two historic cesspools on the site (see Exhibit C.1 for locations). The City has no record that these facilities were ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services to decommission these facilities. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

The applicant has proposed to remove the existing garage and sheds (2) and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures over 200 square feet on the site prior to final plat approval. If an accessory structure is less than 200 square feet in area, the applicant must submit before and after photos of the removal (with the same perspective) to verify removal of the accessory structures. Prior to removal of these structures, tree protection must be installed in accordance with the approved Tree Preservation Plan (Exhibits C.1 and A.9), per Conditions C.3, C.4 and D.1. If the applicant wishes to retain the sheds that will be located on Parcel 3 beyond final plat approval, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on Parcel 3 within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval. 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 easements are required for this land division:

- A Private Access Easement is required over the flag pole of Parcel 2 to provide a shared access serving Parcels 1, 2 and 3.

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

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

With the conditions of approval discussed above, this criterion is met.

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

Findings: The transportation system must be capable of 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):

Street Capacity and Levels of Service

The proposal will result in a net increase of 2 single-family residences. These residences can be expected to generate 20 daily vehicle trips with 2 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

[Connectivity

the site's vicinity meets the spacing standards for N-S connections. The nearest E-W streets are located ~325 feet to the north and ~850 feet to the south of the site. The lots abutting the site to the west are fully developed and are not further dividable. So, although the optimum spacing criteria would indicate the need for an east-west connection at this site, there is no practicable opportunity to provide it in this land division.]

Vehicle Access/Loading

The new lots will share a single driveway with the existing residence to remain which will provide access to parking and loading.

On-Street Parking Impacts

The new lots will share a single driveway with the existing residence to remain which will provide access to on-site parking. This single driveway approach will preserve on-street parking normally lost when each lot creates its own driveway.

Availability of Transit

Tri Met Bus Line #2 is available to serve the site ~850 feet to the south at SE Division Street. Line #9 is ¾ mile away at SE Powell Blvd and SE 112th Avenue.

Neighborhood Impacts

The site is being developed with 2 new single-family residences in compliance with the existing R5 zoning.

Safety for All Modes

SE 113th has traffic volumes and speeds low enough that all modes can share the roadway.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation beyond right of way dedication to accommodate potential future improvements is necessary for the transportation system to be capable of supporting the proposed development in addition to the existing uses in the area. These criteria are met.

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

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

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.

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

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

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

No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The applicant has proposed the following stormwater management methods:

- **Parcels 2 and 3:** Stormwater from these lots will be directed to individual soakage trenches 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 the soakage trenches.
- **Parcel 1 (the parcel with the existing house):** The existing house has downspouts that do not meet setback requirements to the proposed new lot lines. Modifications will be needed to retrofit the stormwater system for the existing house to remain. The applicant must modify the stormwater system for the existing house as necessary to comply with Stormwater Management Manual prior to final plat approval. Any required plumbing permits must have final inspection approval.

With the condition 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 site's vicinity meets the spacing standards for N-S connections. The nearest E-W streets are located ~325 feet to the north and ~850 feet to the south of the site. The lots abutting the site to the west are fully development and are not further dividable. So, although the optimum spacing criteria would indicate the need for an east-west connection at this site, there is no practicable opportunity to provide it in this land division.

The site is within the Portland Master Street Plan for the Division Midway District. There are no connections called for at this site. Therefore, the proposal is consistent with the 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, SE 113th Ave is classified as a Local Service Street for all modes. It is a 50-ft wide right-of-way (ROW) improved with center strip paving lacking curbs and sidewalks. Standard frontage improvements would include additional paving as needed, curb located

13-ft from the ROW centerline, 8-ft public stormwater facility, 6-ft sidewalk, and a 0.5-ft frontage zone. If BES approves a public sump, the 8-ft public stormwater facility will become a standard 4-ft wide furnishing zone. The applicant has chosen to pay the Local Transportation Infrastructure Charge (LTIC) rather than construct standard improvements. To accommodate potential future improvements, additional right-of-way (3 feet) must be dedicated along the frontage of the site. The applicant will also be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

Based on the foregoing, the width of the right-of-way will be sufficient to accommodate the expected users and this criterion is met with the condition that the required right-of-way dedication is shown on the Final Plat, the applicant pay the LTIC charge, and the required waivers are signed prior to final plat approval.

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

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review. Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

Future Development

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

- Flag Lots-- 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, except that the applicant has received approval of a modification to the landscape buffer standards for Parcel 2.
- Narrow Lots-- development on Parcel 3 will be subject to the following standards at the time of development permitting:
 - Height of the structures will be limited to 1.2 times the width of the structure, per 33.110.215.B.2; and
 - Garages can be no wider than 50% of the width of the front façade of the house, per 33.110.253.D.3.a
 - Attached garages are not permitted where the street facing façade of a unit will be less than 22 feet per 33.110.253.D.3.b.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The building wall of the existing house will be 3 feet from the new property line and the eaves will extend to 2 feet from the new lot line. Therefore, the required setbacks are being met per 33.110.220.D.2. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building (with eaves) relative to the adjacent new lot lines.
- **Accessory Structures** – There are three accessory structures on the site that will be located on Parcel 3 after the land division (1 garage and 2 sheds). In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 3 must be removed prior to final plat. The garage is greater than 200 sf, therefore the applicant must provide documentation prior to final plat approval that the required demolition permit has received final inspection approval.

The sheds are less than 200 square feet in size and therefore a demolition permit is not required for removal. The applicant must submit before and after photos to document removal of the structure. Alternatively, the applicant may choose to execute a covenant with the City to retain the sheds for up to two years without a primary structure. The covenant must meet the requirements of 33.700.600 and be executed prior to or with the Final Plat. The garage is not eligible for this option because it would be located 4 feet from the new property line and does not meet the requirements of 33.110250.C.b to be located within the 5-foot side setback.

- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. A garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the required parking space for the existing house will be located on a different parcel. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Parcel 1 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval and it must be shown on the supplemental plan.

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 applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2; and fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for loss of street tree planting area for the site. Prior to the land division the site has 102 feet of frontage on SE 113th, which would yield 4 street trees (1 tree per 25 linear feet). After the land division the site will yield 3 street trees. A fee for the loss of 1 street tree (1.5”) is required prior to final plat approval. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 3-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 tree protection, modifications to the existing house, payment of the LTIC fee, compliance with technical standards, and legal documents.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition, that will result in 1 standard lot, 1 flag lot and 1 narrow lot as illustrated with Exhibit C.1;

Approval of a modification to the flag lot landscaped buffer standard for Parcel 2as described in Condition D.3;

Approval of a modification to reduce the north side setback of Parcel 3 to 4 feet;

Subject to the following conditions:

- A. Supplemental Plan.** Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
- Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 113th Avenue. The required right-of-way dedication must be shown on the final plat.

2. A Private Access Easement over the “flag pole” portion of Parcel 2 for the benefit of Parcels 1 and 3 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. A 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 C.8, C.9 and C.10 below. The recording blocks shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

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

Streets

1. The applicant shall complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.
2. The applicant must pay the LTIC fee to the satisfaction of PBOT.

Existing Development

3. The applicant must obtain a finalized demolition permit for removing the garage on Parcel 3. Prior to removal of this structure, tree protection must be installed per the applicant’s arborist report (Exhibit A.9, also explained under section B. Tree Preservation above).
4. The applicant must remove the sheds on Parcel 3. The applicant must submit before and after photos of the removal (with the same perspective). Prior to removal of these structures, tree protection must be installed per the applicant’s arborist report (Exhibit A.9, also explained under section B. Tree Preservation above). Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
5. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning the historic cesspools (2) on the site.
6. A parking space shall be installed on Parcel 1, in conformance with the applicable requirements of the Portland Zoning Code. The applicant must obtain a finalized Zoning Permit for installation of the parking space. The permit plans must include the note: *This permit fulfills requirements of Condition C.6 of LU 18-266139.* The new parking space must also be shown on the supplemental plan. Tree protection must be installed per the applicant’s arborist report (Exhibit A.9, also explained under section B. Tree Preservation above).
7. The applicant must meet the requirements of BES for modifications to the stormwater systems on the existing house to remain on Parcel 3. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. The applicant must obtain and finalize any required plumbing permits for this work prior to final plat approval.

Required Legal Documents

8. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition B.2 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.
9. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
10. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1, 2 and 3. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other requirements


11. 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. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Development on Parcels 1, 2 and 3 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.9). Specifically, trees numbered 6 to 13 are required to be preserved, with the root protection zones indicated on Exhibit C.1 and the encroachments outlined in the arborist report (also explained in Section B Tree Preservation above). 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. Additional encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.
2. The applicant must protect trees 1 to 5 during site preparation and construction of the new houses on Parcels 2 and 3 per the applicant's arborist report (Exhibit A.9, also explained under section B. Tree Preservation above), or as directed by Urban Forestry. These trees will become street under the jurisdiction of Urban Forestry.
3. The applicant must install the required landscaped buffer plantings on Parcel 2 with the new house as follows: evergreen high shrubs must be planted along the east and west 14-foot sections of the north lot line, and 1 new tree must be planted in each of these areas. Evergreen high shrubs must also be planted in the northern 20-foot section along the west lot line. Groundcover plants are not required.
4. 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.
5. The applicant will be required to install residential sprinklers in the new house on Parcel 2 to the satisfaction of the Fire Bureau.

6. Vehicle access to Parcels 1 and 3 must be from the flag pole of Parcel 2. A driveway is not allowed along the frontages of Parcels 1 and 3.

Staff Planner: Diane Hale

Decision rendered by:  **on October 10, 2019**
By authority of the Director of the Bureau of Development Services

Decision mailed October 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 November 14, 2018, and was determined to be complete on May 2, 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 November 14, 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 by 46 days. Unless further extended by the applicant, **the 120 days will expire on October 15, 2019.**

Some of the information contained in this report was provided by the applicant.

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

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

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone.

Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

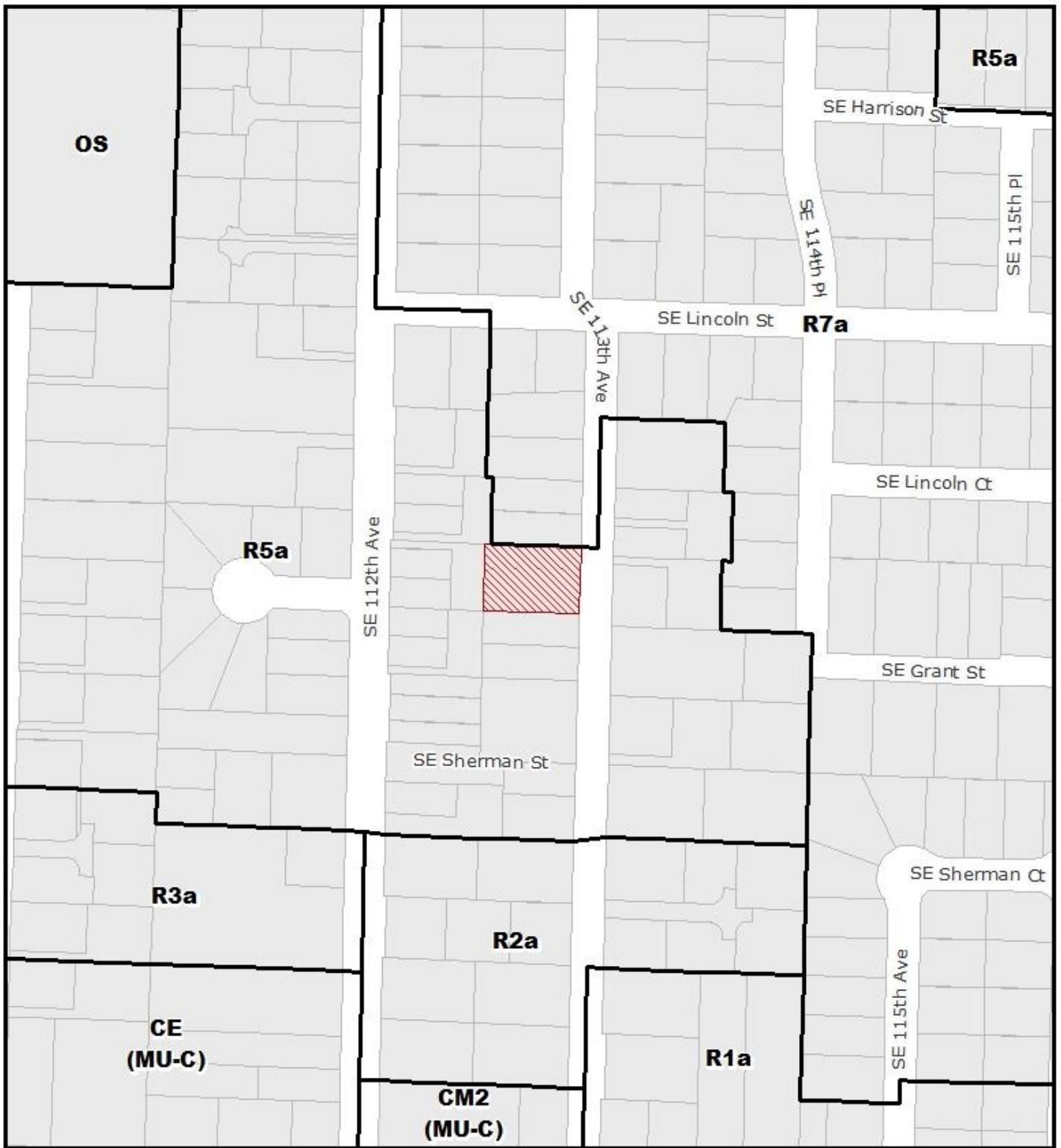
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's original submittal and plans
 - 2. Applicant's response, January 7, 2019
 - 3. Applicant's response, May 2, 2019
 - 4. Applicant's response, June 7, 2019
 - 5. Applicant's response, June 17, 2019
 - 6. Applicant's response, August 22, 2019
 - 7. Applicant's response, September 27, 2019
 - 8. Stormwater Report
 - 9. Arborist report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Conceptual Site Plan (attached)
 - 1. Existing Conditions Map
 - 2. Tree Preservation Plan
 - 3. Conceptual Clearing and Grading Plan
 - 4. 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. Fire Department
 - 5. Site Development Review Section of BDS
 - 6. Life Safety Section of BDS
 - 7. Urban Forestry
- F. Correspondence:
- 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).



ZONING  NORTH

 Site

File No.	LU 18-266139 LDP
1/4 Section	3242
Scale	1 inch = 200 feet
State ID	1S2E03DC 12100
Exhibit	B Nov 16, 2018

PRELIMINARY SITE PLAN

FOR A LAND DIVISION OF LOT 9, BLOCK 1, PLAT OF "LAMBER ADDITION" SITUATED IN THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, COUNTY OF MULTNOMAH, STATE OF OREGON
 CASE FILE NO. LU 18-266139 LDP

STORMWATER MANAGEMENT

INFILTRATION RATE: 4.5 IN/HR (AVERAGE OF TEST 3 FROM TWO SIMPLIFIED APPROACH TEST DATES)
 PROPOSED LAND SURFACE FOR USDS REPORT 2008-5058 PLATE 1
 SITE SLOPE: -0.3% & TOWARDS SE 113TH AVENUE

- PROPOSED IMPERVIOUS SURFACES (2650 SQ. FT. + 850 SQ. FT. IMPERVIOUS PARKING OPTION)
 - 1A. 1350 SQ. FT. PRE-FABRICATED HOUSE
 - 1B. 1300 SQ. FT. HOUSE
 - 1C. 310 SQ. FT. PARKING PAD AND DRIVEWAY AREA PERVIOUS PAVERS OPTIONAL PER DRWG NO. SW-110;
 - 1D. 310 SQ. FT. PARKING PAD AND DRIVEWAY AREA PERVIOUS PAVERS OPTIONAL PER DRWG NO. SW-110;
 - 1E. 300 SQ. FT. PARKING PAD AND DRIVEWAY AREA PERVIOUS PAVERS OPTIONAL PER DRWG NO. SW-110;
- SOMAGE TRENCH SIZE AND CONSTRUCTED PER CITY OF PORTLAND SWMM 2.3.4.1.K
- DOWNSPOUT RETROFITTED WITH EXTENSION TO LAWN.

PARCEL INFORMATION

ADDRESS: 2715 SE 113TH AVENUE, PORTLAND 97216
 PROPERTY ID: R201133
 TAX ID: 18-01-0000-0000-0000-0000
 ACT ACCOUNT NUMBER: R477000220
 STATE ID: 1520300-12100
 USE: RESIDENTIAL LAND
 OWNER: DENNIS PATERA AND LYNNE M. PATERA
 ZONING: R2A RESIDENTIAL 5.000
 COMPREHENSIVE PLAN: RS-HIGH DENSITY SINGLE DWELLING
 ENVIRONMENTAL OVERLAYS: N/A
 FEMA SPECIAL FLOOD HAZARD AREA: NONE, FEMA FIRM NO. 470831260, EFFECTIVE DATE 11/29/2010

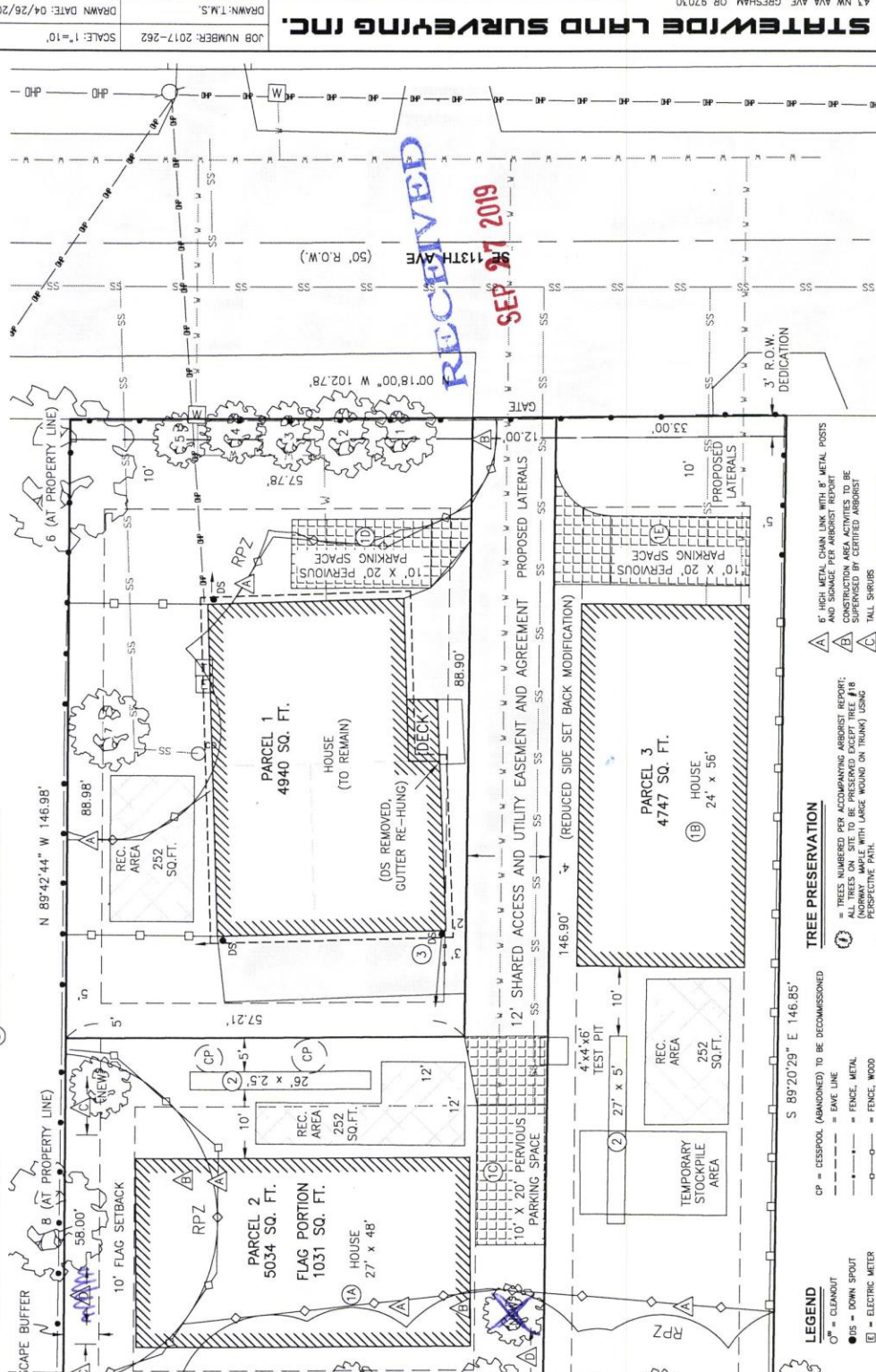
LEGEND

- CP = CESSPOOL (ABANDONED) TO BE DECOMMISSIONED
- = EAVE LINE
- = FENCE, METAL
- = FENCE, WOOD
- = OVERHEAD POWER LINE
- = SANITARY SEWER LINE
- = WATER LINE
- = CLEANDUT
- = DOWN SPOUT
- = ELECTRIC METER
- = TELEPHONE METER
- = UTILITY POLE
- = WATER METER

TREE PRESERVATION

- ① = TREES NUMBERED PER ACCOMPANYING ARBORIST REPORT; (NORWAY SPRUCE WITH LARGE WOUND ON TRUNK) USING PERSPECTIVE PATH.
- ② = KATSURU TREE
- RPZ = ROOT PROTECTION ZONE PER ARBORIST REPORT

8" HIGH METAL CHAIN LINK WITH 8" METAL POSTS AND SORAGE PER ARBORIST REPORT CONSTRUCTION AREA ACTIVITIES TO BE SUPERVISED BY CERTIFIED ARBORIST TALL SHRUBS LANDSCAPE BUFFER MODIFICATION TO BE PRESERVE EXISTING TREES PER ACCOMPANYING ARBORIST ADDEMENT



CLIENT: DENNIS PATERA AND LYNNE M. PATERA
 DRAWN: T.M.S.
 REVIEWED: D.A.H.
 SHEET: 1/1

REVISION: R1 04/28/2019
 REVISION: R2 06/11/2019
 REVISION: R3 07/23/2019
 REVISION: R4 08/21/2019
 REVISION: R5 08/25/2019

JOB NUMBER: 2017-262
 SCALE: 1"=10'

WEB: WWW.STATEWIDESURVEYING.COM
 EMAIL: SURVEY@STATEWIDESURVEYING.COM
 O: 503-665-7777 F: 503-665-7988
 43 NW 9th Ave. Gresham, OR 97030

CASE NO. 18-266139
 EXHIBIT C.1