



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

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Date: June 25, 2021
To: Interested Person
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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 20-198928 LDP

GENERAL INFORMATION

Applicant: Dmitry Shmelev
6048 SE Knapp Street
Portland OR 97206-7546
971-331-6457 / ds190333@gmail.com

Property Owner: Robert Grigoryan
23920 NE 28th Street
Camas WA 98607

Aleksandr Beglets
3728 NE 115th
Portland OR 97220

Site Address: 4908 SE 59TH AVENUE
Legal Description: TL 13500 0.24 ACRES, SECTION 18 1S 2E
Tax Account No.: R992180900
State ID No.: 1S2E18AA 13500
Quarter Section: 3536

Neighborhood: Woodstock contact Thatch Moyle at thatchmoyle@gmail.com
Business District: Woodstock Community Business Association /
<http://www.woodstockbiz.com>
District Coalition: Southeast Uplift / Leah Fisher / 503-232-0010 x313

Plan District: None
Zoning: Single Dwelling Residential (R5)

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

Proposal: The applicant proposes a **Land Division-Partition** to divide an approximately 10,449 square foot property into 2 parcels. An existing house is proposed to remain on Parcel 1. All other accessory sheds and a swimming pool are proposed to be removed from the site. Parcel 2 is proposed to be configured as a flag lot.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land (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 subject site is an approximately 10,449 square foot, relatively flat property that is developed with a single-story dwelling, with an attached garage, and several detached sheds and an in-ground swimming pool and spa, and ornamental landscaping.

The predominate development within 1,000 feet of the site includes a mix of single and two-story houses on lots that range in size from around 4,800 to 19,000 square feet. The closest commercial corridors are along SE Foster and SE 82nd Avenue, which are approximately ½ mile to the north and east of the site. Other development in the area includes Woodstock Park and Arleta Elementary School, which are also approximately ¼ and ½ mile of the site. Close by there is a well-developed north-south street pattern, but very few east-west streets.

Infrastructure:

- **Streets** –The site has approximately 92 feet of frontage on SE 59th Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, the City’s Transportation System Plan (TSP) classifies SE 59th Avenue as a *Neighborhood Walkway* and *Local Service* for all remaining modes. According to City GIS data, SE 59th Avenue is improved with an approximate 28-ft wide paved roadway within a 50-ft wide Right-of-Way (ROW), in which the abutting pedestrian corridor is comprised of a 0.5-ft wide curb, 3.5-ft wide Furnishing zone, 5-ft wide sidewalk, and 2-ft wide Frontage zone. For an overall corridor width of 11-ft. Tri-Met provides transit service via Bus Lines 10, 14, 17 and 71, which have stops within ¼ to ½ mile from the site.
- **Water Service** – There is an existing 8-inch water main in SE 59th Avenue. The existing house is served by this main.
- **Sanitary Service** - There is an existing 10-inch concrete (CSP) public combined sewer line in SE 59th Avenue (BES as-built # 0875). The existing house is served by this line.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The site is in the Single-Dwelling Residential 5,000 (R5) zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

Land Use History: City records indicate there are no prior land use reviews for this site.

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

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **March 25, 2021**. No written responses have been received.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
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.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.
	33.655 - 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 R5 zone. Based on the applicant’s survey, the site area is 10,449 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. Therefore, the site has a

maximum density of 2 units and a minimum required density of 2 units. However, since the minimum required density is equal to the maximum allowed density, the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to 1 unit.

The applicant is proposing 2 single dwelling parcels, so the density standards are met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R5 Zone	3,000	8,500	36	50	30	40	40
Parcel 1 (existing house)	5,081		80	63	80	---	---
Parcel 2 (flag lot)	5,368 (overall) 4,603 (flag portion)		---	---	---	92	50

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

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

Flag Lots: A flag lot is only allowed when existing development precludes a land division that meets the minimum lot width, and when specific access, lot area and lot dimension regulations are met (33.610.400). Given the location of the existing dwelling unit and attached garage, there is not sufficient space along the SE 59th Avenue frontage to configure a second lot that would meet the minimum lot width standard.

The proposed flag lot (Parcel 2) meets applicable Zoning Code standards found in 33.610.400, since it meets the minimum lot area, width and depth standards, noted in the table above, and it has a 14-foot wide "pole" that connects to a street. Due to the location of the attached garage on the existing house, it isn't practical to require a shared vehicle access. However, PBOT has noted the curb cut along the frontage of Parcel 2 must be reduced, at the time of development, to meet the width requirements along that site frontage (Exhibit E.2).

Based on these factors, the proposal has met the thresholds for when a flag lot is allowed, and the applicable density and lot dimension standards will be met. Therefore, this criterion is met.

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

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

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

Clearing and Grading: The site is primarily flat and is not located within the Potential Landslide Hazard Area. The applicant notes no clearing or grading is proposed on Parcel 1. The applicant indicates an accessory shed will be removed from Parcel 2 and an existing in-ground pool and spa will be removed and further excavated for a basement for a new house on Parcel 2. Given these circumstances, the erosion controls that will be applied at the time of the permit for the excavation should be sufficient to limit potential impacts from erosion and protect water quality.

The project plans indicate there are no trees on the subject site and the applicant indicates the trees on the abutting lots are not within 15 feet of the proposed development on the site, so no tree protection measures are proposed. However, based on a site visit, on October 20, 2020, staff noted there are several large diameter trees on the abutting lot that appear to be very close to the east lot line of Parcel 2 and the applicant's plan (Exhibit C.1) shows the excavation of the existing pool and future basement will be approximately 10 feet from the east lot line, so some protection measures appear warranted for those neighboring trees. To ensure the neighboring trees are protected during any grading activities on Parcel 2, a condition will be applied that an arborist report must be submitted, which documents protection measures will be provided in accordance with the Title 11 standards for construction activities on Parcel 2.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. The applicant is proposing to remove the existing accessory buildings and repurpose the in-ground pool and spa situated within Parcel 2 for a basement for a future residence; therefore, no land suitability issues are anticipated.

With the noted condition, these criteria are 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):

In reviewing the proposal, City staff evaluates the Land Division criteria in tandem with Connectivity requirements as noted in section 33.654.110 and discussed further below.

The applicant submitted a written narrative individually addressing each of the transportation-related approval criteria noted above. The application proposes a flag lot partition to divide the existing site into two parcels: a 5,081 sq. ft. western lot (Parcel 1) which retains the existing home and driveway access on SE 59th Ave., and a 5,368 sq. ft. flag lot (Parcel 2) located behind (east) of the existing home. Consistent with Title 17.82.45, PBOT requires that future driveway locations be identified on plans submitted with the land division and may impose conditions of approval as appropriate and necessary regarding the number, configuration, and use of driveways necessary to ensure the safe and orderly flow of traffic, preserve on-street parking, preserve or establish street trees, maximize opportunities for vegetated stormwater management, reduce pedestrian conflicts, and enhance the pedestrian environment. Vehicular access for Parcel 2 will be located along the south property line as proposed, which will be the "flag pole" of the flag-lot. PBOT Traffic Engineering has approved his configuration, however the curb cut for Parcel 2 shall be narrowed to the width of the proposed driveway (9-ft minimum; 12-ft maximum), to be completed at time of development of Parcel 2. The remainder 70-ft will allow for approximately three on-street parking spaces adjacent to the property.

The abutting streets are fully improved with a paved roadway and established pedestrian corridors. However, in accordance with Administrative Rule TRN 10.17.F, City policy calls for landscaping all sidewalk furnishing zones between the curb and pedestrian through zone, and not to allow placement of paving material in these strips. This policy reflects City planning goals for maintaining the aesthetic qualities that landscaped furnishing zones provide in any area, and for pedestrian safety. Furnishing zones also mitigate storm water runoff from the

sidewalk, reducing the amount storm water within the City's system. Therefore, as condition of Final Plat approval, remove existing concrete from the furnishing zone and replace with vegetation and street trees, reviewed through a Minor Improvement Permit (MIP).

Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition, the new proposed parcel is projected to generate one additional morning and one evening trip, for approximately ten daily trips. The net addition of one single-family residence added to the transportation system resulting from the development will not adversely impact the operations of area intersections, as the proposed development adds negligible trips to the transportation network compared to existing volumes in the area and is consistent with the zoning of the property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area and capable of maintaining acceptable levels of service.

The subject site is located within two TriMet bus service lines: 10-Harold and 17-Holgate – both of which are within quarter mile from the site and have complete sidewalks and adequate crossings between the site and transit stops. For bicycles, both SE 58th Ave and SE Steele St are identified City Bikeways, with the remaining surrounding streets being low-volume neighborhood streets which allows for a safe and comfortable environment for cyclists. The existing sidewalk network in the area is generally complete. Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes.

Based on the foregoing, with conditions for some minor improvements to the SE 59th Avenue frontage to provide space for street trees and driveway changes for Parcel 2, this criterion will be met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p>
<p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1</p>
<p>No stormwater tract is proposed or required. BES reviewed the applicant's proposed stormwater management methods, and provided the following:</p> <p>Parcel 1 (the lot with the existing house): <i>Per the submitted plans and available plumbing records, stormwater from the existing home to remain on Parcel 1 is managed in the following way: the downspouts on the southeast and southwest corners of the home discharge to an underground piped system and to the combined sewer in SE 59th Ave. The other two downspouts discharge to splashblocks. The piped system and splashblocks appear to meet setbacks to the proposed new property line.</i></p> <p>Parcel 2: <i>Staff reviewed the project's Simplified Approach stormwater report (dated 9-11-2020, page 2 revised June 2021), which includes Simple Pit infiltration test results of over 9 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via a 4'x5' drywell and a 3' gravel driveway strip. Although the SIM Form is outdated, the facilities meet the current 2020 SWMM requirements as well as the minimum requirements and</i></p>

setbacks as established in the facility design standards and Table 2-1 of the 2020 SWMM.

Public Right-of-Way Stormwater Management: *There are no public right-of-way improvements that will trigger BES public stormwater drainage improvements.*

Based on the foregoing, these criteria are met.

33.654.110.B.1 Through streets and pedestrian connections

33.654.130.C Future extension of proposed dead-end streets & pedestrian connections

33.654.130.D Partial Rights of way

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 block on which the subject property is located does not meet the noted spacing requirements, since the nearest public east-west rights-of-way are approximately 1,100 feet to the north and approximately 560 feet to the south. Therefore, there should be an east-west pedestrian connection provided in the vicinity of the site, as noted in the following PBOT response:

The subject site is located within an approximate 1,775-ft long platted city block bound by SE Harold to the north, SE Mitchell to the south, and SE 60th Ave to the east. This block is the longest continuous block in the immediate vicinity. The SE Harold intersection is approximately 1,100 feet to the north, whereas SE the SE Mitchell intersection is approximately 610 feet to the south, exceeding the stated spacing goals outlined the Connectivity approval criteria above.

The purpose of the Connectivity requirement is to enhance the direct movement by pedestrians, bicycles, and motor vehicles between destinations. Direct routes for bicycles and pedestrians from residential areas to neighborhood facilities such as schools and parks, are particularly important to increase the convenience of travelling by foot or bicycle. When street connections are not practical, pedestrian connections shall be generally no further apart than 330-ft. In this case, while an east-west connection is desirable somewhere in the vicinity of this property, due the surrounding development pattern a connection between SE 59th and SE 60th Avenues is determined not to be practical at this time.

Though the optimum spacing criteria would indicate the need for an east-west pedestrian connection at this site, given the configuration of the abutting property to the east (4907 SE 60th Avenue), which consists of two underlying platted lots that are not large enough to further divide, it could be problematic to extend a pedestrian connection onto that site to create a through connection. As such, a pedestrian connection will not be required. This criterion is met.

33.654.120.B & C Width & elements of the right-of-way

33.654.120.E Pedestrian connections

33.654.120.H Street trees

Width and elements: PBOT relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. PBOT has indicated that the existing SE 59th Avenue width is acceptable, provided pavement is removed to allow space for needed street trees, as also noted in the Urban Forestry response and addressed below. PBOT has also noted the driveway for Parcel 2 will need to be modified to meet allowed width standards along that site frontage.

Street Trees: Land Division proposals are required to have preliminary approval from the City Forester, in consultation with the City Engineer, for the retention of existing street trees and providing adequate areas for future street tree planting on existing and proposed public streets (33.654.120.H). Urban Forestry evaluated the proposal and determined there are no existing street trees along the site frontage. Urban Forestry noted one street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum 1.5 caliper inches. Urban Forestry also notes a Minor Improvement Permit may be required to construct 4'x6' concrete cutouts for two required street trees along the SE 59th Avenue frontage.

Therefore, with conditions for the pavement changes to accommodate street trees and to

ensure the curb cut for Parcel 2 meets City standards, the width of the 59th Avenue right-of-way will be sufficient to accommodate the expected users and provide the required elements. As such, these criteria will be met.

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

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

DEVELOPMENT STANDARDS

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

Future Development: 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.

Existing Development: The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the 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 existing house will be at least 5 feet from the new property lines. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- Accessory Structures – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed parcels to be approved, the accessory structure (shed) that straddles the line between proposed Parcels 1 and 2 must be removed prior to final plat. Because the structure is less than 200 square feet in size, a demolition permit is not required. The applicant must submit before and after photos to document removal of the structure.

Additionally, in this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed parcels to meet this standard, the other accessory structure (shed) on Parcel 2 must be removed prior to final plat. Because the structure is less than 200 square feet in size, a demolition

permit is not required. 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 accessory structure 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.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- **Fire Bureau:** The applicant must meet the requirements of the Fire Bureau for fire apparatus access; addressing; aerial fire department access roads; sprinkler permitting requirements. These requirements are based on the 2019 Oregon Fire Code, technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). The primary issues identified with this proposal are: existing development, street trees, and fire department access.

As discussed in this report, with the application of the conditions outlined in this report, the approval criteria can be met. Therefore, this proposal can be approved, subject to those conditions.

ADMINISTRATIVE DECISION

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

A. Supplemental Plan. A supplemental plan shall be submitted with the final plat survey for Land Use and Fire 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 following must occur prior to Final Plat approval:

Streets

1. The applicant shall obtain an approved Minor Improvement Permit (MIP) from the Portland Bureau of Transportation to remove existing concrete from the furnishing zone and replace with vegetation and street trees, along the SE 59th Avenue frontage.

Utilities

2. The applicant shall meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in the 2019 Oregon Fire Code. Alternately, if applying an allowable exception, the applicant will be required to install residential sprinklers in the new house on Parcel 2 and an Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

3. The applicant shall remove the shed crossing the property line between Parcels 1 and 2 and the shed in the southeast corner of Parcel 2. The applicant must submit before and after photos of the removal (with the same perspective). Alternately, the applicant can execute a covenant with the City stating that the shed in the southeast corner of Parcel 2 will be removed if a primary structure has not received final inspection on that parcel within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
4. The applicant shall meet the requirements of Urban Forestry to plant street tree(s) in the planter strip on SE 59th Avenue adjacent to Parcel 1. The applicant must contact Urban Forestry at 503-823-TREE (8733) prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.

Required Legal Documents

5. If the Fire Bureau has required Acknowledgement of Special Land Use Conditions form to meet Condition B.2, the applicant shall execute an Acknowledgement of Special Land Use conditions, and the acknowledgement shall be referenced on and recorded with the final plat.

Other

6. The applicant shall provide an arborist report for BDS review and approval that demonstrates construction activities on Parcel 2 shall provide protection measures for off-site trees, located within 15 feet of the site, in accordance with the Tree Protection Specifications of 11.60.030.

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

1. Construction activities on Parcel 2 shall provide protection measures for off-site trees in accordance with the approved arborist report, as required per Condition B.6.
2. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. Any development permits on lots that require residential sprinklers must include residential sprinkler plans for review by the Plumbing Department for the Bureau of Development Services. Please refer to the final plat approval report for details on whether this requirement applies.
4. The curb cut for Parcel 2 shall be narrowed to the width of the proposed driveway (9-foot minimum; 12-foot maximum) to the satisfaction of Portland Transportation.

Staff Planner: Kate Green

Decision rendered by:  **on June 22, 2021.**
By authority of the Director of the Bureau of Development Services

Decision mailed June 25, 2021.

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 October 2, 2020, and was determined to be complete on March 19, 2021.

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 October 2, 2020.

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 24-days, as stated with Exhibit A.4. Unless further extended by the applicant, **the 120 days will expire on August 9, 2021.**

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 City Planning Director, 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.**

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Initial Submittal (October 2, 2020)
 - 2. Revised Submittal (March 3, 2021)
 - 3. Amended Submittal (May 21, 2021)
 - a. SIM Form
 - 4. Timeline Extensions
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing Conditions
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development/BDS
 - 6. Urban Forestry
 - 7. Life Safety/BDS
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application and expedited land division form
 - 2. Letter to applicant re: incomplete application
 - 3. Correspondence to/from applicant

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