



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

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Date: August 9, 2021
To: Interested Person
From: Lois Jennings, Land Use Services
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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 21-039365 LDP

GENERAL INFORMATION

Owner: Linsey Owens
 534 SE 46th Avenue
 Portland, OR 97215
 linseyowens2@outlook.com

Applicant: Danelle Isenhardt, Isenhardt Consulting LLC
 P.O. Box 2364
 Beaverton OR 97075
 Phone#: 503-880-4979 or danelle@isenhardtconsulting.com

Site Address: 534 SE 46TH AVE

Legal Description: BLOCK 7 LOT 4, PARADISE SPR TR
Tax Account No.: R642800800
State ID No.: 1S2E06BA 08000
Quarter Section: 3135
Neighborhood: Sunnyside, contact at <http://www.sunnysideportland.org>
Business District: Belmont Business Association, contact at info@belmontdistrict.org.
District Coalition: Southeast Uplift, contact Leah Fisher at 503-232-0010 x313
Plan District: None
Zoning: R2.5- Residential (Single-Dwelling Residential 2,500)
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 applicant is proposing to divide the subject site into two (2) parcels. Future Parcel 2 will be for residential development and the existing house will be retained on Parcel 1. The existing house will retain its on-site parking space and on-site parking is being shown for the future house on Parcel 2. Parcel 1 will be 2,541 s.f. in area and Parcel 2 will

be 2,716 s.f. in area. The applicant's preliminary site and utility plan shows services (sanitary, stormwater and water) will be provided for each lot.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines "parcel" as a single unit of land created by a partition of land. The applicant's proposal is to create two units of land (2 lots). 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:

- **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

FACTS

Site and Vicinity: The site is an interior lot that has street frontage on both SE 46th Avenue and SE 47th Avenue. A bungalow style house and a detached accessory structure exist on the site. The main entrance to the existing 1-story house is oriented towards SE 46th Avenue. An existing driveway provides vehicle access to parking on the site via SE 46th Avenue. A variety of shrubs, roses and a small maple tree create a landscape area between the front elevation of the house and the street. A fence provides privacy to the northern portion of the property which abuts SE 47th Avenue.

The surrounding area is mostly 1- 2-story single-family residences. There are a few duplexes and apartment buildings mixed in this residential area. R2.5 residential zoning is north, and south of this site, but directly to the west the zoning changes to R5. The zoning for properties that abut SE Stark street varies from RM1- Residential Multifamily, R5- Residential 5,000, and CM1-Mixed Commercial, where commercial, multi-family residential development and religious institutions are located. Glencoe Elementary is approximately 800-1000-ft. southeast of the site and Mt. Tabor Middle School is northeast of the site. The nearest park is Laurelhurst Park about a ½ mile northwest of the site at SE 39th Avenue & SE Stark Street. Mt. Tabor Park is approximately a mile to the east of the site.

Infrastructure:

- **Streets** – The site has 50-feet of frontage on SE 46th Avenue and SE 47th Avenue. Both streets, SE 46th Avenue and SE 47th Avenue, are classified as Local Service streets for all transportation modes per the Transportation System Plan (TSP). Both streets have approximately 24-ft. to 26-ft. wide paved roadway, with curbs and sidewalks within a 40-ft. right-of-way. The existing sidewalk corridor is comprised of a 2-5-1 configuration.
- **Nearest Transit Service:** Tri-Met provides transit service south of the site on SE Belmont Street via Bus line #15.
- **Water Service** – There is an existing 8-inch CI water main in SE 46th Avenue and an 8-inch water main in SE 47th Avenue. The existing house is served by a 5/8-inch metered service from the water main in SE 46th Avenue.
- **Water Bureau Fire Flow Information:** The nearest fire hydrant is at the 4710 SE Stark Street, approximately 150-ft. north of the site. This fire hydrant has a fire flow of 2,500 gpm at 20 psi residual. There is a second fire hydrant located at the

intersection of SE 46th Avenue and SE Alder Street, with a fire flow of 2,300 gpm at 20 psi residual pressure. Combined fire flow is at least 2,500 gpm at 20 psi.

- **Sanitary Service** - There is an existing 8-inch public combination sewer line in SE 46th Avenue (BES as-built #0062). There is a public 8-inch VSP combined sewer in SE 47th Avenue. BES models predict that this sewer may surcharge during the five-year storm event. Sanitary Service availability for the future lots is discussed further under Section 33.652 approval criterion.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. There is an 8-inch VSP combined sewer in SE 47th Avenue. The applicant is proposing to provide on-site stormwater management facility for the proposed development, which is discussed later in this report under 33.653.030.

Zoning: The R2.5 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. Both detached and attached single dwellings are allowed. 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 prior land use reviews for this site.

- **VZ 242-83:** This variance involved the properties with them address of 524 SE 46th Avenue and 534 SE 46th Avenue. Denial of a variance request to reduce the minimum lot area from the required 5,000 s.f. to 2,800 s.f.; denial to reduce the minimum lot depth from required 80-ft. to 56-ft. for the proposed four lots. Denial to reduce the required setback from 5-ft. to zero for two of the proposed lots to divide the existing lots into four parcels with retaining the existing dwellings.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 11, 2021**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 THE Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all 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	A phased land division or staged final plat has not

	Division or Staged Final Plat	been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	All 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 zone	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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey (Exhibit C.1 & Exhibit C., the site area is 5,582 square feet, prior to the dedication. The maximum density in the R2.5 zone is one unit per 2,500 square feet. The maximum density is two (2) units (lots). Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The minimum density is 1 unit (lot).

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)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1 with					

existing house	2,541	50	50.6	50
Parcel 2	2,716	50	54.3	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.

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

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

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

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

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, the applicant's arborist report (Exhibit A.8, A.11 & A.12) has identified a Red Pine tree on the adjacent property, which is within 15 feet of potential disturbance area on the proposed Parcel 2. The arborist recommended tree protection measures for the tree that will occur at the time of development on the site. With the condition to put in place the recommended tree protection to reduce impact to the off-site Red Pine tree at the time of development on Parcel 2, this criterion is met.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. The site is not located within a Potential Landslide hazard area or within the FEMA Special (100-year) Flood Hazard area. As indicated above, the site is relatively flat and contains no known geological hazards. The applicant proposes to remove the shed from future Parcel 2 to make it suitable for development. Therefore, there are no anticipated land suitability issues, and the new lots can be considered suitable for new development. This criterion is met.

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

33.641.020, Traffic Impacts, Approval Criterion

A. 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; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated as required by 33.641.020.B

B. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand

management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and comments/findings are summarized (see Exhibit E.2) below:

Finding: The applicant provided a written narrative addressing the transportation approval criteria above. The application proposes to divide the existing 5,257 square foot lot into two parcels, each fronting onto a public street as the existing site abuts two Right-of-Ways (ROW). Due to the subject site being located beyond the 500-foot limit for frequent transit service, therefore on-site parking is required for both lots. Proposed Parcel 1 (western lot) will retain the existing home and driveway access, whereas proposed Parcel 2 (eastern lot) will provide a new curb cut and access as demonstrated on submitted plans. PBOT finds that with on-site parking provided for both properties, that on-street parking supply will effectively be unchanged, thus negating the potential demand the proposal places on the neighborhood. Therefore, neighborhood livability and on-street parking demand is expected to remain in this case.

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, which the established grid-pattern provides many redundant routes for multiple modes, and is consistent with the zoning of the property. The abutting streets are fully improved with a paved roadway and established pedestrian corridors. 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 walking distance from four TriMet bus lines - Route 20 which runs along E Burnside Street to the north; Route 71 runs along SE 60th Avenue to the east; Route 15 (frequent service) runs along SE Belmont Street to the south; and Route 75 (frequent transit) runs along SE Cesar E Chavez Blvd. to the west of the site. The MAX line (green/blue/red) is north of the site along I-84 and are approximately 1 mile from the site. Therefore, regular, and reliable transit service is available in close proximity to the site and have complete sidewalks and adequate crossings between the site and transit stops. For bicycles, the site is within proximity to several Neighborhood Greenways such as SE 45th, SE 53rd and SE Taylor to name a few allows for a safe and comfortable environment for cyclists to connect to other complete facilities in the immediate area and other areas within Portland. For Pedestrians, while the abutting sidewalk will be improved to City standards, the remainder of the sidewalk network in the area is complete and provides safe passage to locations within the immediate vicinity and to local transit stops. Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes and will enhance the pedestrian environment.

The existing sidewalk corridor along these street frontages on SE 46th Avenue and SE 47th Avenue currently do not meet City standards. Street dedication and reconstructing the sidewalk corridor to meet City standards will mitigate the impact to the on-site circulation system along both frontages. The right-of-way dedication and improvements to the sidewalk corridor are further discussed further under Criterion L. 33.654.

As such, with the condition noted above for improvements along SE 46th Avenue and SE 47th Avenue, PBOT concludes the transportation system will be capable of supporting the proposed development in addition to the existing uses. Therefore, this criterion is 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

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 3 of this report. The applicant's narrative (Exhibit A.1) and site utility plan (Exhibit C.1) shows the existing house will continue to utilize the existing water service from the main in SE 46th Avenue and a new individual water service will be provided for future Parcel 2 from the water main within SE 47th Avenue.

Fire Bureau has reviewed the fire flow information (Exhibit A.4 & A.7) and determined the nearest fire hydrant has adequate capacity.

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 (BES) has indicated that service is available to the site, as noted on page 3 of this report. BES reviewed the applicant's proposed improvement and utility plan (Exhibit C.1), and comments are summarized below:

- *Parcel 1 with Existing Development:* According to City records, the existing structure on proposed Parcel 1 is currently connected to the combined sewer in SE 46th Avenue via a lateral located approximately 90 feet from the maintenance hole ABR682.
- *Parcel 2 -Proposed Development:* Parcel 2 will be served by a new connection to the combined sewer in SE 47th Avenue within its frontage

BES determine the applicant's proposal for sanitary service acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal standard and approval criterion.

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:

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

The applicant has proposed the following stormwater management methods:

- Parcel 1 with the existing house: The existing house has downspouts that drain onto the ground.
- Parcel 2: Stormwater from this lot will be directed to stormwater planter that will treat the water and then any overflow will go the existing combo sewer in SE 47th Avenue.

Bureau of Environmental Services (BES) reviewed the proposal and comments are below:

From reviewing the submitted information the on-site stormwater management for the existing house being retained on future Parcel 1 will continue to be met on its new lot.

For the future development on Parcel 2, BES staff reviewed the project's Simplified Approach stormwater report (Exhibit A.5), which includes Simple Pit infiltration test (Exhibit A.6) results of 1.25 inches per house on this site. Based on the poor infiltration rates, the applicant proposes for runoff from development to be discharged offsite to the combined sewer after and flow and volume control standards are met with an on-site planter sized per

the Simplified Approach form.

Bureau of Environmental Services determined the applicant's stormwater management plan acceptable for the purpose of reviewing the land division application against the stormwater management standards and approval criterion.

Public Right-of-Way Stormwater Management: As a condition of this land use approval, PBOT requires the applicant to improve the frontage of the site to City standards (discussed earlier in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of the Stormwater Management Manual.

With the above listed requirements, BES staff determined for the purpose of this land division proposal the Stormwater runoff from public right-of-way improvements meets the stormwater management standards and approval criterion.

The stormwater standards have been verified and criterion 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 block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be an east-west connection provided in the block to improve connectivity. However, the northern boundary of this site, where a pedestrian connection would be most feasible due to the space and development potential on the adjacent site, is approximately 150 feet from SE Stark street. It would be difficult to install a pedestrian connection on the southern edge of this site because of the very limited space on the site and the adjacent property to the south is already fully developed. If a connection is provided on this block it should be further to the south.

Portland Bureau of Transportation provided the following comments:

The site is located within an area in which the established grid-pattern provides many redundant routes for multiple modes. The abutting streets are fully improved with a paved roadway and established pedestrian corridor. Therefore, additional connections are not practical at this location.

For the reasons described above, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comments

In reviewing this land division, Portland Transportation 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. Portland Bureau of Transportation (PBOT) comments are summarized below:

At this location SE 46th Avenue and SE 47th Avenue are both classified as a Local Service for modes of transportation per the City's Transportation System Plan (TSP).

Existing Conditions:

- **SE 46th Avenue:** SE 46th Avenue is improved with approximately 24-ft. paved roadway with curbs and sidewalk within a 40 ft. wide right-of-way. The sidewalk corridor consists of a 2-5-1 configuration.
- **SE 47th Avenue:** SE 47th Avenue is improved with a 24-ft. wide paved roadway, with

curbs and sidewalks within a 40-ft. right-of-way. The existing sidewalk corridor comprised of a 2-5-1 configuration.

Standard Improvements:

In the R2.5 zone for a Local Service Street, the City's *Pedestrian Design Guide* recommends a 11-foot pedestrian corridor with a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 0.5-ft frontage zone. The existing 8-ft. pedestrian corridor does not meet City Standards. Because the existing furnishing zone along both frontages are less than 3-ft wide (including the curb), the site cannot qualify for Administrative Rule 1.22 "*Infill Development on Streets with an Existing Sidewalk Corridor*". Therefore, dedicate sufficient property to accommodate a 11-ft wide corridor and reconstruct both frontages to City standards above. (NOTE: the applicant's survey indicated that a 3.25-ft dedication is needed to accommodate an 11-ft corridor.). PBOT gave the applicant the opportunity to propose an alternative frontage improvement solution by requesting a Public Works Alternative. No alternative frontage improvement was requested by the applicant and therefore the pedestrian corridor will be reconstructed to meet the City standards as set out in the City's Pedestrian Guidelines per the City Transportation System plan.

PBOT notes the applicant will be required to dedicate property and to reconstruct the pedestrian corridor along both SE 46th Avenue and SE 47th Avenue sites frontage to City standards. Therefore, a dedication of sufficient property to accommodate an 11-ft pedestrian corridor (approx. 3.25-ft) is required to be provided and shown on the final plat to bring SE 46th Avenue and SE 47th Avenue into conformance with City standard. The reconstruction of the pedestrian corridor to City Standards along SE 46th Avenue, the site frontage for Parcel 1 with the existing house must occur prior to final plat approval. A Minor Improvement Permit is required to reconstruct the frontage along SE 46th Avenue. The reconstruction of the sidewalk corridor along SE 47th Avenue may occur with the development of Parcel 2. A permit is required to reconstruct the pedestrian corridor along both street frontages.

PBOT determined with the condition the pedestrian corridor along both street frontages for this site is reconstructed to City standards, along with the necessary street dedication, the street system will be capable of serving the existing users and proposed new development within this neighborhood. With the conditions of approval described above, this criterion is met.

33.654.120.H- Street Trees

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

Existing Street Conditions:

- SE 46th Avenue.: The site has approximately 50 ft. of street frontage. The right-of-way is improved with pavement, curb, planting strip, and sidewalks. There are overhead high voltage power lines. There are 0 street trees along this frontage.
- SE 47th Avenue: The site has approximately 50- ft. of street frontage. The right-of-way is improved with pavement, curbs, planting strip and sidewalk. There are no overhead high voltage power lines. There are no street trees along this frontage.

Street Tree Planting (11.50.060.C):

One street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum of 1.5 caliper inches and be a species chosen from an approved street tree list. Street tree planting may be exempt under 11.50.060.B when existing above or below utilities prevent planting street trees or when the existing planting strip is less than 3-feet wide. Street trees are required to be planted through public works permit or building permit or prior to final plat approval.

Urban Forestry comments are summarized below (See Exhibit E.6 for specifics):

Transportation is requiring the pedestrian corridor to be reconstructed along the frontage of Parcel 1 with the existing house. Currently there are no street trees within this right-of-way planting strip within this street frontage. There is available street tree planting area for a street tree at this location. At the time of the minor improvement a street tree is required to be planted within the planting strip of frontage abutting Parcel 1 with the existing house. Parcel 2 will be required to plant street trees at the time of development on the lot.

With the following conditions of approval, Urban Forestry has no objections to this land division proposal. Prior to final plat approval the applicant must plant a street tree within right-of-way planting strip on SE 46th Avenue street frontage of Parcel 1 where the existing house is being retained.

With the conditions noted above, this criterion is met.

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

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

DEVELOPMENT STANDARDS

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

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 to any development standard applicable in the R2.5zone. 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 is are several Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** (33.110.220)– 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. Currently the attached uncovered deck with stairways and landing would extend beyond the proposed lot line onto the future Parcel 2. The applicant is proposing to remove or alter the attached deck/stairs and landing to meet the setbacks. The preliminary site plan (Exhibit C.1) shows after the attached deck is removed the existing house will be 12-feet from the new property line. Therefore, the required setbacks can be 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.

- Extension into required building setbacks (33.110.220.C.1 & C.2): The Zoning code allows certain features of a building to extend into a required building setback up to 20 percent of the depth of the setback. An uncovered deck that is more than 2-1/2 feet above the ground may extend into the required setback 20%. If the attached uncovered deck is no more than 2-1/2 feet above the ground it may extend into the required building setback. Currently the stairways and landing from the attached deck would extend onto future Parcel 2 and therefore the applicant is proposing to remove the existing attached uncovered deck to be in compliance with setback standard. A condition of approval is required to ensure the attached deck is removed or altered to be in compliance with Title 33 standards prior to final plat approval.
- Outdoor Area (33.110.235) – The existing house identified to remain on the site must continue to meet the required Zoning Code for required continuous outdoor area (250 s.f. & a minimum dimension 12-ft. x 12-ft.) requirement. Therefore, to ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing this standard will continue to be met for the existing house on Parcel 1.
- Accessory Structures (33.110.250.B.3)– In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, for Parcel 2 to meet this standard, the existing accessory structure on future Parcel 2 must be removed prior to final plat. If the structure 200 square feet in size or greater then a building permit is required to demolish it. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. If 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. The supplemental survey at the time of final plat submittal will also document the detached accessory structure removed. To ensure that this standard is met, a condition of approval is necessary.
- Location and Height of Fences (33.110.255): The existing fence along SE 47th Avenue, will be in right-of-way due to the street dedication required by Portland Bureau of Transportation (PBOT). It will need to be removed or altered per PBOT discretion at the time of final plat or street improvement permit review. Any new or relocated fence proposed on Parcel 2 will need to meet current standards for fences, including a maximum height of 3 ½ feet high in the required front building setback.

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.

CONCLUSIONS

The applicant has proposed a two-parcel partition, as shown on the attached preliminary plan (Exhibit C.1 & C.2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The current pedestrian corridor does not meet current City Standards per the Pedestrian Guidelines for this street classification. Therefore, Portland Bureau of Transportation requires the pedestrian corridor along both street frontages to be reconstructed to meet City standards. For the existing house to remain in compliance with Title 33 zoning code standards on its new lot, Parcel 1, the attached deck will be altered or removed. To make future Parcel 2 suitable for development and in compliance with Title 33 standards, the existing detached accessory structure will be removed from Parcel 2. The fence along SE 47th Avenue’s frontage will either be removed and or altered per PBOT requirements. At the time of development on Parcel 2, any fence along Parcel 2’s street frontage will be required to meet the maximum height requirement of 3 ½ feet. A neighbors Red Pine tree to the north, will be protected at the time of development of Parcel 2.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition, that will result in two residential lots as illustrated with Exhibit C.1 and C.2 subject to the following conditions:

- A. Supplemental Plan.** One copy of an additional supplemental survey plan shall be submitted with the final plat survey for Land Use Review Section of BDS 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;
 - Document the removal of the accessory structure and attached deck once removed or altered.
 - 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 both street frontages, SE 46th Avenue and SE 47th Avenue. The required right-of-way dedication must be shown on the final plat survey.

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant must obtain an approved Right-of-Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the SE 46th Avenue frontage of Parcel 1 where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the SE 47th Avenue frontage of the undeveloped lot, Parcel 2, may be constructed with development on the lot as per the City Engineer's discretion.


Existing Development

2. The applicant must obtain a finalized demolition permit for removing the accessory structure on Parcel 2. If it is determined the accessory structure is less than 200 s.f., then the applicant must submit before and after photos of the removal (with the same perspective) and the supplemental survey submitted with the final plat application will document the removal of the accessory structure.
3. The applicant must meet PBOT requirements to remove or alter the fence located - within the SE 47th Avenue right-of-way dedication area. If the fence is relocated on the site, Parcel 2, then documentation must be provided via the supplemental survey and pictures that the fence was altered to be 3 ½ feet high within the first 10-ft of the new front lot line of future Parcel 2 to be in compliance with 33.110.255.C.
4. The applicant must document the removal or alteration of the deck attached to the existing house to be in compliance with setbacks. If the attached deck is more than 2 ½ feet above grade a building permit is required to alter or remove the existing deck. The building permit must be issued, approved, and receive all inspections and a final prior to final plat approval. If the attached deck is no more than 2 ½ above grade, then the applicant may document with the supplemental survey that the deck has been removed or altered to be in compliance with Title 33 setback standards and does not encroach onto Parcel 2.
5. The applicant must meet the requirements of Urban Forestry to plant one (1) street tree in the planter strip on SE 46th Avenue street 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.

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

1. The applicant shall meet the requirements of the City Engineer for right of way improvements for SE 47th Avenue along the frontage of Parcel 2.
2. Tree Protection must be provided for the off-site tree (Red Pine), to the north of Parcel 2, as shown on the site plan (Exhibit C.1). Tree Protection must be installed per the Arborist Report (A.11) or as directed by an updated arborist report at the time of development.

Staff Planner: Lois Jennings

Decision rendered by:  **on August 6, 2021**
By authority of the Director of the Bureau of Development Services

Decision mailed August 9, 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 April 21, 2021, and was determined to be complete on June 8, 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 April 21, 2021.

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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: October 6, 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 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. Narrative addressing land division approval criteria
 - 2. Deed History
 - 3. Plans
 - 4. Fire Flow Information
 - 5. Stormwater Simplified Approach Form
 - 6. Rapid Soil Solutions Report
 - 7. Fire Service & Sprinkler Design Flow Availability estimate
 - 8. Arborist Report
 - 9. Applicant's Response to Incomplete letter
 - 10. Revised Site Plan submitted June 8, 2021
 - 11. May 11, 2021 Arborist Report submitted June 8, 2021
 - 12. Tree Inventory Table submitted June 8, 2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division, Utility and Tree Site Plan (attached)
 - 2. Preliminary Partition Plat site plan
- 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 Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Expedited Land Division Acknowledgement
 - 3. Incomplete Letter

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).