



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

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Date: September 2, 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 21-014140 LDP

GENERAL INFORMATION

Applicant: Paul Matveev, Kavkaz Construction
20244 Danny Court Oregon City, OR 97045
kavkaz40llc@gmail.com 503-309-3773

Consultant: Paul Roeger, CMT Surveying & Consulting
20330 SE Hwy 212 Damascus, OR 97089
paul@cmtsc.net 503-860-2545

Owner: Mikhail Maleyev
14752 SE Thornapple Lane Milwaukie, OR 97267

Site Address: 1715 SE 148TH AVE
Legal Description: SUB 3 OF LOT 42 EXC W 150' & EXC PT IN ST, NEWHURST PK
Tax Account No.: R602306440
State ID No.: 1S2E01CA 06400
Quarter Section: 3245

Neighborhood: Centennial, contact at <http://www.eastportland.org/centennial>
Business District: Midway, contact info@midwaybusiness.org.
District Coalition: East Portland Community Office, contact at 503-823-4550.

Zoning: Residential – 7,000 (R7)
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 to divide this 17,920 square foot lot that currently contains a single detached dwelling into 2 parcels. Parcel 1 is proposed to be 11,837 square feet and contain

the existing house to remain. Parcel 2 is proposed to be 6,083 square feet and will be available for residential development. The applicant proposes to preserve all three large Douglas Fir trees on the site.

In order to show feasibility of providing services and other criteria, the applicant has provided a site plan showing an existing single dwelling residence on Parcel 1 to remain with on-site parking accessed via a driveway on SE 148th Avenue. Parcel 2 is currently vacant and does not have a conceptual development proposal except for a proposed turnaround driveway. Please note that the proposed lots qualify for additional density under the Residential Infill Options of 33.110.265. On-site parking is not required (33.266.110.B.2).

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 area is comprised of almost all R7 properties. The next closest zoning district, Residential Multi-dwelling 1 (RM1), is approximately 0.2 miles away located on the east side of SE 148th Avenue between SE Mill Street and SE Division Street. This subject site is larger than most of the properties in the neighborhood at almost 18,000 square feet. Most of the homes in the neighborhood are single dwelling homes on a typical 7,000 to 9,000 square foot lots. This property is approximately 1,600 feet from Parklane Park, approximately 0.6 of mile from North Powellhurst Park, and approximately 0.6 of a mile from Lincoln Park.

Infrastructure:

- **Streets** – At this location, SE 148th Ave. is improved with a 56-ft paved roadway within an 80-ft right-of-way. The sidewalk corridor consists of a 0.5-ft curb, 3-ft furnishing zone, 5-ft sidewalk, and 3.5-ft frontage zone (3-5-3.5 configuration). The site has approximately 128 feet of frontage on SE 148th Avenue. There is one driveway entering the site, which serves the existing house on the site. At this location, SE 148th Avenue is classified as a District Collector, Major Transit Priority, Major City Bikeway, Major City Walkway, and a Local Service freight route in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 1.2 miles from the site at SE 122nd Avenue via Bus #73.
- **Water Service** – There is an existing 16-inch water main in SE 148th Avenue provided by the Rockwood Water District. The existing house is served by a metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC sewer only line in SE 148th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: Residential 7,000 (R7)

The R7 zone 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.

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 1, 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 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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site add if site has e-zoning outside of environmental zones.
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	Exhibit C1 shows are "turnaround" on private property for proposed Parcel 2. However, no turnaround is proposed or required in the right-of-way, so this criterion does not apply.
	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 17,920 square feet. The maximum density in the R7 zone is one unit per 7,000 square feet. Minimum density is one unit per 7,000 square feet based on 80 percent of the site area.

The site has a maximum density of 2 units and a minimum required density of 2 units. The applicant is proposing 2 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)
R7 Zone	4,200	12,000	40	55	30
Parcel 1	11,837 sf		84.55 ft	140 ft	84.55 ft
Parcel 2	6,083		43.45 ft	140 ft	43.45 ft

* 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.

Based on the foregoing, 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 C1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A5) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a prescriptive root protection zone (RPZ) and tree protection measures for each tree to be preserved.

Based on this information, 3 trees, which provide a total of 89 inches of tree diameter, are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition, include native/non-nuisance species, and 100% of the trees are 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R7 zone and will not conflict with any existing utility easements, proposed services or site grading. Tree Number 4 is dying, so it is exempt from these requirements and calculations.

Specifically, the applicant proposes to retain 100% percent of the trees that are 20 or more inches and 89 inches (or 100%) of the total tree diameter, so the proposal complies with:

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

In addition, the applicant's arborist report has also identified 1 tree west of Parcel 2 that is within 15 feet of potential disturbance area on the proposed parcels. In order to protect the off-site trees from construction impacts, the arborist recommends avoiding it as it is a nuisance species tree. Since preserved Tree #3 (30-foot RPZ) is between the off-site tree and the buildable area for Parcel 2, Tree #3's RPZ can be considered adequate protection for the off-site tree.

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

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C1) and the Arborist Report (Exhibit A5).

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.

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. A geotechnical report may be required at building permit if there is excavation required with the right-of-way improvements per Site Development. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. The trees proposed for preservation have adequate root protection zones. 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 is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. 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.

I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.

Findings: The solar access regulations encourage variation in the width of parcels to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

All of the proposed parcels are on the west side of a north-south oriented street, and are considered interior parcels (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other parcels. This criterion is therefore 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 E2):

The property is in an area where the roadway network has relatively good connectivity. The property is within a 590-foot long block, which is very close to meeting the City's goal of streets every 530-feet. The majority of the roads in the area are paved though sidewalk coverage is intermittent.

Bus transit is available on SE Stark Street and SE Division Street. Both streets have Tri-Met service routes that arrive at intervals of 15-minutes or less most of the day, every day. Both streets are approximately a ½ mile walk from the subject site, which is farther than the recommended ¼ mile or less walk to transit. With that said, sidewalk facilities do exist

on SE 148th Avenue to access both of the transit routes. The existing sidewalks are a mix of curb separated sidewalk facilities and curb tight sidewalk facilities.

The complete network of paved streets provides ample opportunity for bicycle travel. Additionally, striped bicycle lanes exist on SE 148th Avenue for higher speed riders which can be accessed from the frontage of the subject site. Based on information in the City's database on Portland Traffic Deaths and Injuries since 2008, there have been no injury accidents but there has been one fatal accident on SE 148th Avenue between SE Main Street and SE Mill Street. At the intersection of SE 148th Avenue and SE Mill Street, there was a 2012 fatality to a person riding a bicycle. Alcohol was confirmed as being involved. While the goal is no fatalities on the transportation network, the crash rate does not rise to the level of concern that would prohibit development in compliance with the base zone.

To staff's knowledge, PBOT has not identified any level of service concerns with this segment in the TSP or other planning documents. It is believed this segment functions well for travel via all modes and has capacity to absorb the anticipated trips by all modes from one additional residential lot.

On-site vehicle parking is proposed for each lot. Since SE 148th Avenue is a collector street, forward motion ingress and egress will be required for any new on-site parking. No specific development has been proposed to date for Parcel 2. With that said, the proposal did include a drawing showing feasibility of providing a hammer head style turn around on the proposed 43-foot wide Parcel 2.

No off-site mitigation is required for the proposed development. Reconstruction of the sidewalk to the standard configuration will be required for both parcels. At the time of permit, the proposal will be evaluated for compliance with the driveway requirements of 17.28.110 including the installation of any proposed driveway curb cuts.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of supporting the proposed development in addition to the existing uses in the area. Standard sidewalk corridor improvements will be required to serve the proposed development (see criterion L. 33.654). These criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.</p>
<ul style="list-style-type: none"> The Rockwood Water District has indicated that service is available to the site, as noted on page 3 of this report. The water service standards of 33.651 have been with the condition that the applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement.
<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 3 of this report. The sanitary sewer service standards of 33.652 have been verified.</p>

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:

- **Public Street Improvements:** 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.
- **Parcel 2:** BES staff reviewed the project's Simplified Approach stormwater report, which includes Simple Pit infiltration test results of 9 inches per hour on this site. According to the submitted narrative, the applicant proposes to infiltrate runoff from the development on Parcel 2 via onsite drywells. However, no site plan was provided demonstrating the proposed facilities will meet BES required setbacks. As it appears there will be adequate space for the placement of a facility, BES will not require a revised site plan at this time. However, prior to final plat approval, the applicant must provide the following:
 - A preliminary utility plan showing stormwater management facilities sized according to SWMM standards and which meet the minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM. As there is no known development plan at this time, the plan should be based on conceptual development that could be constructed on the proposed parcel.
 - **Parcel 1 (the lot with the existing house):** BES has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of BES. 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 application of the noted conditions, these criteria and standards will be met.

33.654.110.B.1 Through streets and pedestrian connections
33.654.130.B Extension of existing public dead-end streets & 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 meets does not meet the noted spacing requirements by 60 feet. The site contains sufficient width to allow the creation of a public east-west through street. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

The site is within the Portland Master Street Plan for the Division-Midway District. The site is midblock within a 590-foot long block. This is close enough to the goal of 530-feet between streets that no further street connection is desirable. Therefore, the proposal is consistent with the master street plan.

There are no partial rights-of-way nor are there any configurations that allow for future extensions of streets or pedestrians connections through the site. This approval criterion is not applicable.

For the reasons described above, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way and 33.654.120 Street Trees– See Exhibit E2 and E6 for bureau comment

This section requires approval by PBOT for the elements within the right-of-way.

Construction of new elements is not proposed or required in the right-of-way. This approval criterion is not applicable. There are no partial rights-of-way nor are there any configurations that allow for future extensions of streets or pedestrians connections through the site. This approval criterion is not applicable.

Based on the foregoing, the width of the right-of-way will be sufficient to accommodate the expected users and PBOT.

As discussed in the findings for Criterion K above, PBOT has determined the width of the existing right-of-way is sufficient to accommodate the needed reconfiguration of the sidewalk with standard improvements, and such improvements will be sufficient to the anticipated users. Additionally, Urban Forestry has determined adequate planter space is available for the required street trees. As such the width of the right-of-way can accommodate the required elements and this criterion is met with the condition that the curb and sidewalk improvements are made and a fee is paid to Urban Forestry for the loss of one street tree space.

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.

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 R7 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 is one Zoning Code standard that relates 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 cross the

new property line. Therefore, the house must be modified to meet setbacks prior to final approval as proposed. 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 and a finalized building permit for the modification work must be obtained.

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
Rockwood Water District/ 503-665-4170 www.rwpud.org/	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; ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement; and providing adequate aerial access roads. 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 street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 11.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal is: tree preservation, sidewalk improvements, septic decommissioning, fire flow, stormwater facilities, and modifications to the existing house.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in 2 standard parcels with 3 preserved large Douglas Fir trees as illustrated with Exhibit C1, subject to the following conditions:

A. Supplemental Plan Three copies of an additional supplemental plan shall be submitted with the final plat survey for BDS and BES 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;
- The proposed general location of future building footprints and stormwater facilities for the vacant parcel.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C8 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "An Acknowledgement of Tree Preservation Land Use Conditions 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 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 frontage of Parcel 1, where the existing house will be retained, must be constructed prior to final plat approval. The improvements along the frontage of Parcel 2 may be constructed with development as per the City Engineer's discretion.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
3. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Existing Development

4. A finalized permit must be obtained for demolition of the southern portion of the existing house so the existing house will be able to meet the required 5-foot side setback from the proposed parcel line. A 20% encroachment into that 5-foot setback is allowed for eaves.
5. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be

shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 1 (the lot with the existing home), then the applicant must meet one of the following:

- Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements.
6. The applicant must meet the requirements of Urban Forestry to plant 1 street tree in the planter strip on SE 148th 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

7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan, Exhibit C1, (but revised to show the required RPZs to scale in drawn form around the trees) must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

Other Requirements

8. 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 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C1) and the applicant's arborist report (Exhibit A5). Specifically, trees numbered 1, 2, and 3 are required to be preserved, with the root protection zones indicated on Exhibit C1. Tree protection fencing is required along the root protection zone of the trees to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.
2. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of Parcel 2.
3. 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.

Staff Planner: Clare L. Fuchs

Decision rendered by: _____ **on August 31, 2021**

By authority of the Director of the Bureau of Development Services

Decision mailed September 2, 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 February 11, 2021, and was determined to be complete on May 13, 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 February 11, 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: September 10, 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.

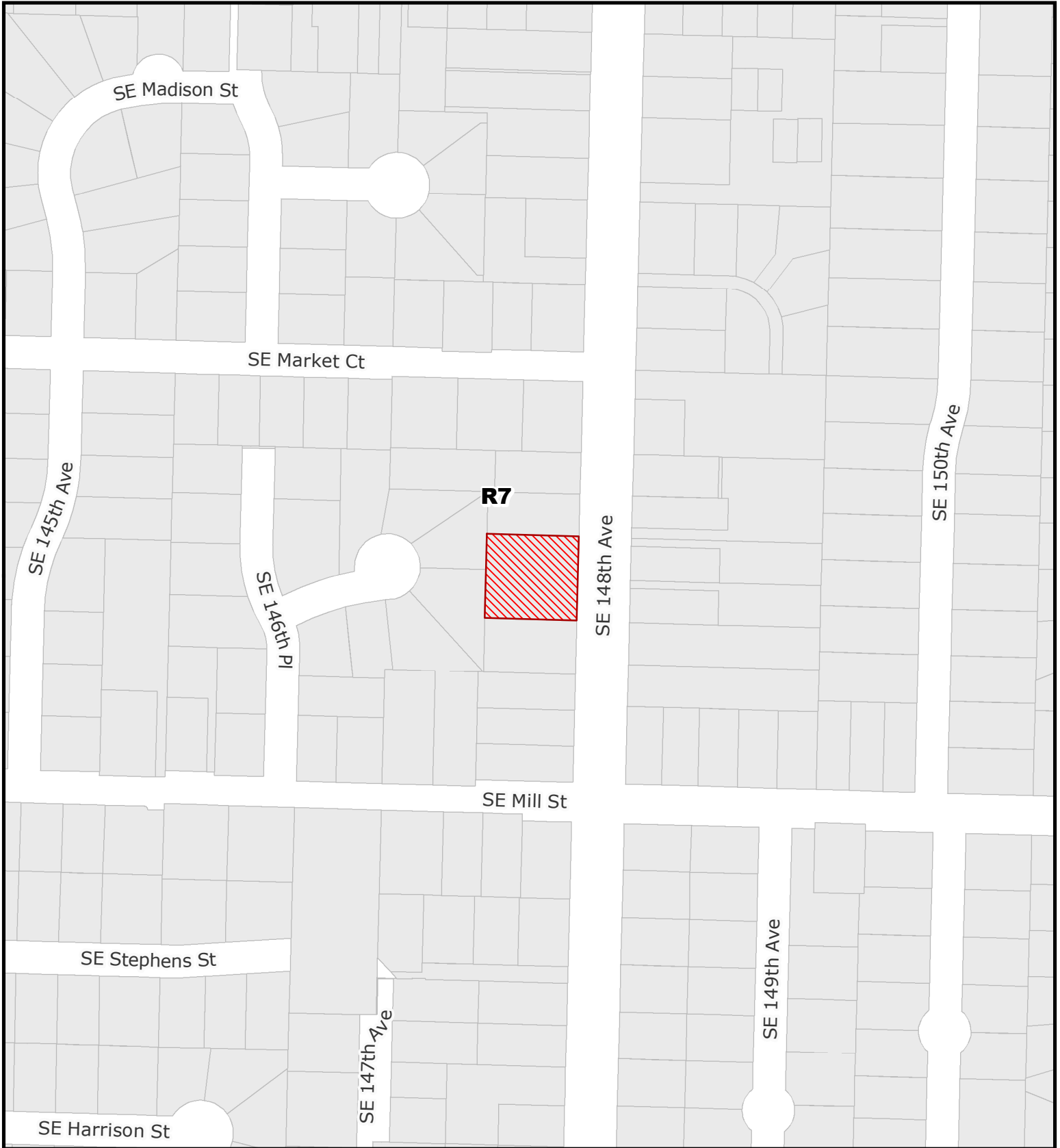
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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
 - 2. Response to Incomplete Letter
 - 3. BES Simplified Approach Form
 - 4. Stormwater Report
 - 5. Arborist Report
 - 6. Original Proposed Development Plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Proposed Development Plan (attached)
- 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. Rockwood Water District
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
- F. Correspondence: (None)
- G. Other:
 - 1. Original LU Application
 - 2. 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).



ZONING 
NORTH



File No.	<u>LU 21 - 014140 LDP</u>
1/4 Section	<u>3245</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S2E01CA 6400</u>
Exhibit	<u>B Feb 12, 2021</u>

