



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: February 25, 2022
To: Interested Person
From: Sean Williams, Land Use Services
503-865-6441 / Sean.Williams@portlandoregon.gov

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

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

CASE FILE NUMBER: LU 21-045879 LDS

GENERAL INFORMATION

Applicant: Max Brunke
KLK Consulting LLC
906 NW 23rd Avenue
Portland, OR 97210
(503) 550-1639 | mbrunke@klkarlsson.com

Owner: Redtail Nest LLC
906 NW 23rd Ave
Portland, OR 97210

Site Address: 1037-1041 SE 111th Avenue

Legal Description: LOT 48-51 TL 3300, HOMESTAKE GARDENS
Tax Account No.: R400901790
State ID No.: 1S2E03BA 03300
Quarter Section: 3141
Neighborhood: Mill Park, contact Trevor Hopper at mill.park.pdx.chair@gmail.com
Business District: Gateway Area Business Association, contact at gabapdxboard@gmail.com

District Coalition: East Portland Community Office, contact at 503-823-4550.
Plan District: None
Zoning: Residential 5,000 (R5) w/ Environmental Conservation (c) Overlay
Case Type: LDS
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to subdivide the subject property into three parcels of approximately 4,228 (Parcel 1), 3,250 (Parcel 2), and 4,502 (Parcel 3) square feet in size. A

private street tract (Tract A) and environmental resource tract (Tract B) are also proposed. The lots are proposed to be developed with single-family homes with accessory dwelling units.

This subdivision 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 subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 5 units of land (3 lots and 2 tracts). Therefore, this land division is considered a subdivision.

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones**.

FACTS

Site and Vicinity: The site is located on the west side of SE 111th Avenue between SE Yamhill and SE Salmon Street. Existing development consists of two dilapidated single-family homes located on the southern half of the site that are currently being deconstructed. The northern half of the site is located within the environmental conservation zone where there are several mature native trees. The Gateway Regional Center is just west of the site and single-family zoning and development is primarily east of the site. The East Portland Community Center and Floyd Light Middle School and park are immediately west of the site.

Infrastructure:

- **Streets** – The site has approximately 140-feet of frontage on SE 111th Avenue. There are two driveways entering the site that serves the existing dwellings. At this location, SE 111th Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides frequent transit service approximately 1,125-feet north of the site on SE Stark Avenue via Bus #21. SE 111th Avenue is improved with a gravel surface of unknown width within a 40-foot-wide right-of-way. No curb or sidewalk exist in the lot frontage.
- **Water Service** – There is an existing 6-inch CI water main in SE 111th Avenue. The site is served by two 5/8-inch metered serviced from this main.
- **Fire Hydrants** The nearest fire hydrant is approximately 230-feet south of the site on the northeast corner of SE 111th Avenue and SE Salmon Street.
- **Sanitary Service** - There is an existing Public 8-inch PVC sanitary sewer main in SE 111th Avenue (BES as-built # 4417).
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. Public underground injection control (UIC) systems ("sumps") infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. Stormwater from private development cannot be discharged to public UICs.

Zoning: The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

Environmental overlay zones (“c” or “p”) protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to preserve the site’s protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less significant.

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 **September 7, 2021**. One written response (Exhibit F.1) was received from a notified property owner in response to the proposal, which expressed concerns regarding the proposed development on an unpaved street and the Local Transportation Infrastructure Charge (LTIC). The Portland Bureau of Transportation (PBOT) provided the following response to the neighbor concerns:

Thank you for the opportunity to respond to the public comments for case 21-045879-LDP at 1037-1041 SE 111th Ave. I have also cc'd the person who provided the comments, Adam Long, in case he is interested.

The comment email provided by Adam Long objects to development on an unpaved street and also has concerns about the Local Transportation Infrastructure Charge (LTIC) program. This email is an attempt to respond to both concerns.

When a development in compliance with the base zone is proposed on an unimproved street, it is important to note that there are limits to what the City can ask an applicant to do. Federal case law allows public jurisdictions to require development to off-set the impact of the proposal on the transportation system, but cannot ask development to fix underlying or pre-existing issues that were not the result of the development. The proposed land division will generate additional trips by all modes through the neighborhood. As noted in the findings already submitted to the file, the proposal includes dedication of land to allow a full street improvement in the future and payment of the LTIC to help fund such an improvement. This has been deemed sufficient to offset the impact of the land division. Offsite improvements, such as paving the length of SE 111th Ave, are out of proportion to the impact of the proposed land division.

The subject site is within a portion of the City which was originally developed under Multnomah County’s jurisdiction and was annexed in 1985. While staff has not researched this individual property, the mid-1980’s was a time where a great deal of land was added to east Portland from the County under legal threat from the Federal Environmental Protection Agency. The area had been developed to urban levels of density without access to a sanitary sewer, creating a public health issue. The need to annex to a jurisdiction that could provide a sanitary sewer forced portions of the County land to be annexed to Portland and other portions to be annexed to Gresham. The property owners being annexed to Portland had to pay for both the expansion of the sewer system and the construction of additional sewer treatment plant capacity to handle the additional load. At the time of annexation, only streets which met a minimum requirement were accepted by the City for maintenance. Given the heavy cost burden associated with road improvements on top of the cost burden of constructing the necessary sanitary sewer, the City left property owners the option of improving the roads abutting their property or retaining them as unimproved. The vast majority of property owners chose not to improve the roads. SE 111th Ave has not been accepted by the City for maintenance, and is therefore the responsibility of the abutting property owners to maintain. ([City Code Chapter 17.42](#), Property Owner Responsibility for Streets, paragraph.010A).

In recognition of the difficulty in getting unimproved roads to city standard one property at a time, the City Council passed the Local Transportation Infrastructure Charge in 2016. This program gives applicants the choice of building frontage improvements or dedicating the necessary land and then paying into a fund which will eventually fund roadway improvements. The program is not designed to immediately fund improvements to each street upon which an LTIC payment has been received. The letter of comment raised concerns that this money is not being appropriately spent on street improvements. If the commenter is interested, they may read about the methodology for how LTIC funds are allocated at <https://www.portlandoregon.gov/transportation/76911>. Additionally, an example of a currently in-process LTIC financed improvement near the subject site can be found at website for the Division-Midway Street Improvement Project. <https://www.portland.gov/transportation/pbot-projects/construction/division-midway-neighborhood-street-improvement-project>.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	It is not practicable to meet both the approval criteria of this chapter and the standards and approval criteria of other chapters in the 600's. Therefore, the regulations of the other chapters supersede the approval criteria of this chapter.
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.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	No pedestrian connections are proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.D - Partial	No partial public streets are proposed or required.

	rights-of-way	
	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 25,719 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. The area of the site within the environmental zone is subtracted when calculating minimum density, therefore the minimum density is based on area of approximately 13,700 square feet. Since a new street is proposed, the maximum density is based on 85 percent of the site area and minimum density is based 68 percent of the site area. Based on the foregoing, the site has a maximum density of 4 units and a minimum required density of 2 units. The applicant is proposing 3 single dwelling lots. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5 Zone	3,000	8,500	36	50	30
Lot 1	4,228		43.14	98	30
Lot 2	3,250		51.18	63.5	52.85
Lot 3	4,502		57	79	57

* 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.

Overall, the findings above show that the applicable density and lot dimension standards are met. Additionally, the lot lines are straight and side lot lines are perpendicular to the street. Accordingly, 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.

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.

In order to identify which trees are subject to these requirements, the applicant provided an Existing Conditions Survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.5) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 27 trees are located on the site, of which 6 trees (totaling 158" in diameter) are located outside of the environmental zone and subject to the preservation requirements of this chapter. Of the 6 non-exempt trees, 5 are 20 or more inches in

diameter. The applicant proposes to preserve trees #23 (20" Douglas fir), #24 (28" Douglas fir), and #25 (32" Douglas fir), which complies with Option 3 of Minimum Tree Preservation Standards (33.630.100.A.3) as greater than 50 percent of the trees that are 20 or more inches in diameter and approximately 50 percent of the total tree diameter on site will be preserved.

The trees proposed for preservation are in good condition, native species, and all greater than 20 inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading. Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

To ensure that future owners of Lot 3 are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Lot 3 must be carried out in conformance with the Erosion and Sediment Control Plan (Exhibit C.4) and the Arborist Report (Exhibit A.5). With the implementation of the noted conditions, the approval criteria will be met.

At the time of development, the individual lots 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 relatively flat, and is not located within the Potential Landslide Hazard Area. However, a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Erosion and Sediment Control Plan (Exhibit C.4) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, undisturbed areas consistent with the root protection zones of trees to be preserved, per the applicant's Tree Preservation Plan, and the overall limits of disturbed area.

The proposed clearing and grading shown on Exhibit C.4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed via an infiltration facility within the street tract to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street and the preparation of the lots, without being excessive. The limits of disturbance shown on the applicant's plan includes grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This

will help manage erosion and sedimentation concerns, assure that the necessary tree protection measures are in place before the grading begins and limit the disturbance on the adjacent properties. The limits of disturbance will also allow for the existing houses on the site to be demolished and any debris associated with these buildings to be removed. In addition, no clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved.

The clearing and grading plan does not show topsoil storage, or a stockpile area, but there is ample room on the site to locate soil stockpiles. A condition of approval will require the clearing and grading plan submitted with the Site Development permit indicate the location of stockpile areas and the limits of disturbance be extended to include these areas.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. The Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan with the changes noted above, 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. Demolition permits (20-198860 RS & 20-219985 RS) for the existing residences including capping of the existing sanitary sewer connections and decommissioning of existing septic systems on the site are currently under inspection. To ensure that the new lots are suitable for development, these permits must receive final inspection approval prior to Final Plat approval. With this condition, the new lots can be considered suitable for development, and this criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: The following tracts are proposed and/or required:

- Tract A: Private Street (Name of Street)
- Tract B: Open Space (Environmental Resource Area *and Drainage Reserve*)

With a condition that the proposed tracts, be owned in common by the owners of Lots 1 through 3 or a Homeowner's Association, this criterion can be met.

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

"A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

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

Findings: The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian

and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

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

Safety

The site is on the west side of SE 111th Ave. between SE Salmon St. and SE Yamhill St. SE 111th Ave. is classified as Local Service for all modes as this location. The existing 40-foot wide right-of-way is improved with a gravel surface of unknown width. No curb or sidewalk exist in the lot frontage.

Based on information in the City's database on Portland Traffic Deaths and Injuries since 2008, there have been no fatal or injury accidents on SE 111th Ave. from the northerly terminus near E Burnside St. and the southerly terminus at SE Main St. There was one injury accident on SE Powell Blvd. at the intersection with SE 111th Ave. The injury was to a person walking. The portion of SE 111th Ave. at SE Powell Blvd. is paved, and SE Powell Blvd. is a high volume collector street meaning there is a high level of vehicular travel. The block face containing the subject site is unimproved and not maintained by the City of Portland. Typically, gravel streets see a much lower level of through travel than a paved street segment. Vehicles typically operate at much lower speeds on gravel streets than on paved streets segment. PBOT does not have vehicular safety concerns at this location. The shared gravel surface makes adding additional bicycle or pedestrian trips to this segment likely to have an incremental negative impact.

Street capacity/Level of Service

SE 111th Ave. is a local service street for which traffic count data is not available. Due to the local service classification, low volumes, and the unimproved nature of the segment, the gravel roadway also currently serves as shared bicycle and pedestrian facility. 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 the segment has capacity to absorb the anticipated increase in trips from two additional residential lots, though the unpaved roadway surface does not meet the City's standard for paved streets.

Connectivity

The subject site is within a block that is 460-feet long. This is well within the City's target standard of through streets being no more than 530-feet apart. The connectivity standards are met.

Transit Availability

The subject site has moderate access to transit. Frequent Service bus transit is available in two locations within ¼ mile of the site. Frequent service transit comes at intervals of 15 minutes a day or less most of the day, 7-days a week. Tri-Met service route 21 is a frequent service bus route operating on SE Stark St. approximately 1,125 feet north of the site. SE Stark St. is a collector with sidewalks. Getting to SE Stark St. from the subject site means walking up SE 111th Ave. The subject block is unimproved, but the next block north has a paved roadway surface and intermittent sidewalks. Bus stops for travel in both directions are at the intersection of Powell and 111th, though crossing SE Powell Blvd. can be difficult in order to access the westbound service at an uncontrolled intersection.

Tri-Met service route 15 is a frequent service bus route operating on SE 106th Ave. at SE Cherry Blossom Drive. The closest stops are approximately 1,125 feet from the site, though the walking route to the bus stop is a longer distance. To access the bus stops, a person would need to travel south to Main St, then west to Cherry Blossom Dr. or walk through Floyd Light Park, past East Portland Community Center and then south on 106th Ave. Either direction, the person will need to walk on the unimproved segment of SE 111th Ave. to access a paved shared roadway, sidewalks, or the multi-use path through the

park. While transit is available, the facilities used to access that transit do not meet the City's standard of a separated sidewalk facility.

Availability of pedestrian and bicycle networks.

Separated sidewalk facilities do not exist for the majority of the streets in the subject area, though most do have paved roadway surfaces which operate as shared facilities. The addition of two lots to the neighborhood is anticipated to increase trips via all modes. Adding additional pedestrian trips to an area where pedestrian facilities are not currently built to City standard will have an incremental negative impact.

Multiple streets in the area are designated as City Bikeways. For east/west travel, SE Stark St. and SE Market St. are paved through street designated as City Bikeways though no separated bike lane exists on either street. E. Burnside Street is a collector street with separated bike lanes. For north/south travel, SE 122nd Ave. is a collector street with separated bike lanes. A lower speed, lower stress alternative is the 100's bikeway, which is part of the City's Neighborhood Greenway network. Neighborhood Greenways are specifically designed to connect neighborhoods for pedestrians and people biking by slowing down traffic and enhancing street safety. The 100's Greenway can be accessed on SE 106th Ave. by travelling through Floyd Light Park and the East Portland Community Center to SE 106th Ave. Adequate bicycle infrastructure is present to absorb the anticipated increase in trips from two new lots.

On street parking impacts

On street parking appears to be available on both sides SE 111th Ave. All of the homes in the area appear to include driveways and on-site parking that accommodate multiple vehicles. The existing homes are proposed to be demolished. The applicant's narrative states the proposed three new homes will each have a driveway and on-site parking accessed by the proposed shared private street. The private street configuration allows on-site parking to be provided on each lot while only making a single driveway connection to the public right-of-way. This minimized the right-of-way used for driveway approaches thereby maximizing the amount retained for on-street parking. It is anticipated there will be few impacts to on-street parking from the addition of the two lots accessed via a shared private street.

Access restrictions

SE 111th Ave. is an unpaved, low-volume, local service street. No access restrictions are warranted.

Neighborhood impacts

The proposed development is anticipated to add a small number of trips from all modes into the neighborhood system. All three lots are proposed to have on-site vehicle parking. Additional pedestrian trips in an area with an incomplete sidewalk network will have an incremental negative impact, however it is anticipated there will be few overall impacts to the neighborhood from the additional two lots.

Impacts on pedestrian, bicycle, and transit circulation

There is transit service available on SE Stark St. and SE 106th Ave., both of which are collector streets. The addition of two lots to the neighborhood is not anticipated to have any impact on the transit circulation on nearby collector streets. A network of interconnected, mostly paved streets provides bicycle connections from this neighborhood to the larger City. The sidewalk network is incomplete in this area. The addition of two residential lots to the neighborhood is not anticipated to have a substantial impact on area circulation. However, adding additional trips to area where the circulation system is not to City standards will have an incremental negative effect.

The impact of the development is small enough that asking the property owner to provide off-site improvements to the transportation system would be out of proportion to the development request. Asking the property owner to dedicate land and construct the site's frontage to City standards will alleviate a portion of the need for transportation system

improvements in the area. Standard improvements on SE 111th Ave. would consist of a 20-ft paved roadway surface with a curb set 13-feet from centerline and a 15-ft sidewalk corridor consisting of a 0.5-ft curb, 8-ft public stormwater management facility, 6-ft sidewalk, and 0.5-ft frontage zone. This would require a total of 28-feet of right-of-way from centerline. The existing right-of-way is 20-feet in width from centerline, requiring 8-ft of dedication to meet the standard.

In this case, the applicant has the choice of constructing standard improvements or paying the Local Transportation Infrastructure Charge (LTIC). On April 13, 2016, the Portland City Council adopted the Local Transportation Infrastructure Charge (LTIC) via approval of Ordinance 187681. The subject site meets the specified criterion to qualify for the LTIC. The LTIC is based on the total linear frontage of the property, at a rate of \$600.00 per linear foot. Based on the submitted survey, the subject site has 140-feet of frontage. The maximum charge for an R5 zoned lot is equivalent to 50-feet of frontage so the LTIC would be \$30,000. When electing this option, applicants are required to execute street and stormwater waivers of remonstrance in addition to paying the LTIC and dedicating land.

The applicant's narrative states they elect to pay the LTIC in lieu of constructing standard improvements. Bureau of Environmental Services has indicated the additional right-of-way needed for stormwater management is not required when applicants pay LTIC. This would reduce the overall ROW width to 24-feet from centerline, requiring 4-feet of dedication to meet the standard. The submitted preliminary plat shows 4-feet of dedication for the full length of the site's frontage.

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. These criteria are met.

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

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

33.651 Water Service standard – See Exhibit E.3
The Water Bureau has indicated that service is available to the site from the 6-inch CI water main in SE 111 th Avenue, as noted on page 2 of this report. The Fire Bureau has reviewed the fire flow and determined the nearest fire hydrant has adequate capacity. The water service standards of 33.651 have been verified. This criterion is met.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
The Bureau of Environmental Services has indicated that service is available to the site from the Public 8-inch PVC sanitary sewer in SE 111 th Avenue (BES as-built # 4417), as noted on page 2 of this report. BES reviewed the proposed improvement and utility plan, and the response is summarized below: <i>Proposed Development: The new lots will be served by new connections to the sanitary sewer in SE 111th via laterals location in the commonly owned private street (Tract A) and within the frontage of Tract A.</i>
BES determined 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. This criterion is met.

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

BES reviewed the applicant's proposed improvement and utility plan, Performance Approach stormwater report, and geotechnical report against the stormwater management approval criteria and standards, and determined that a stormwater management system can be designed that will provide adequate capacity and disposal for the expected amount of stormwater, as summarized below:

Stormwater runoff from this project must comply with all applicable standards of the SWMM and the SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff review the submitted Performance Approach stormwater report from White Pelican Consulting (May 2021) and geotechnical report from Rapid Soil Solutions (Nov 2020). The submitted infiltration testing includes Open Pit infiltration test results of 10 inches per hour on this site. The applicant proposes to infiltrate runoff from the development of all three lots and Tract A onsite via a storm chamber system located within the commonly owned private street tract (Tract A) that can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM.

BES determined the proposal is acceptable for reviewing the land division against the stormwater management approval criteria and standards. This criterion is met.

33.654.110.B.1 Through streets and pedestrian connections**33.654.130.C Future extension of proposed 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 Development Review Section of the Portland Bureau of Transportation (PBOT) has provided the following findings (see Exhibit E.2):

The subject site is within a block that is 460-feet long. This is well within the City's target standard of through streets being no more than 530-feet apart. Additional connections are neither required nor desired at this location.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply. For the reasons described above, this criterion is met.

The adjacent site to the west is a park that is zoned Open Space (OS). There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed dead-end street to the boundary of the site. This criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.

The proposal includes a private dead-end street, which will be in a new tract. As discussed under the findings for through streets above, a new public east-west through street is not required for this proposal. The private dead-end street will serve only 3 dwelling units and it is approximately 113-feet in length from the frontage along SE 111th Avenue to the terminus. This criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2**33.644.120.H Street Trees – See Exhibit E.6**

The width of the local street right-of way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

For public streets, PBOT reviews the configuration of elements within the street right-of-way for consistency with city standards and specifications; and Urban Forestry addresses the retention and installation requirements for street trees.

For private streets, the Bureau of Development Services reviews the configuration of elements within the street right-of-way for consistency with the standards in *Administrative Rules for Private Rights of Way*.

Public Street

At this location, SE 111th Avenue is improved with a gravel surface of unknown width within a 40-foot-wide right-of-way. No curb or sidewalk exist in the lot frontage. In reviewing this land division, PBOT relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. The Development Review Section of the Portland Bureau of Transportation (PBOT) has provided the following findings (see Exhibit E.2):

At this location, the City Transportation System Plan (TSP) classified SE 111th Ave as Local Service for all modes. The site is not within a Pedestrian District.

Standard Improvements: In the R5 zone outside of a pedestrian district, the Pedestrian Design Guide and Creating Public Streets require a 26-foot paved roadway and a 15-foot sidewalk corridor with a 0.5-ft curb, 8-ft public stormwater facility, 6-ft sidewalk, and 0.5-ft frontage zone.

SE 111th Ave.

Standard improvements on SE 111th Ave. would consist of a 26-ft paved roadway and 15-ft sidewalk corridors consisting of a 0.5-ft curb, 8-ft public stormwater management facility, 6-ft sidewalk, and 0.5-ft frontage zone. This would require a total of 56-feet of right-of-way. The existing right-of-way is 40-feet in width, requiring 8-ft of dedication from each side of the road to meet the standard. The applicant has elected to pay LTIC. Bureau of Environmental Services has indicated the additional right-of-way needed for stormwater management is not required when applicants pay LTIC. This would reduce the overall ROW width to 48-feet, requiring 4-feet of dedication from each side of the road to meet the standard. 4-feet of dedication is proposed.

Private Street

The applicant has proposed that a tract, which is 43-feet at its widest point and 30-feet at its narrowest point, is sufficient to accommodate the expected users. The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a roadway width of 20-feet for dead-end streets less than 300 feet long, serving 1 to 3 lots. The proposed tract width will provide room for the construction of a 20-foot-wide paved roadway that allows two travel lanes, a perpendicular parking bay, two 6-inch mountable curbs, and a setback between the street improvements and private property to the south. The tract width will also accommodate landscaped areas and street trees in addition to a short sidewalk section providing pedestrian access to Lot 1 from the terminus of the roadway. In this proposal, the applicant will be disposing of stormwater from the private street via a storm chamber system located within the tract. As noted above, the proposed tract width is sufficient to accommodate the elements of a street that are adequate for 3 lots by the *Administrative Rules* governing private streets.

Based on the foregoing, the width of the existing and proposed rights-of-way will be sufficient to accommodate the expected users subject to conditions requiring the right-of-way dedication to be shown on the Final Plat, payment of the Local Transportation Infrastructure Charge, and executing street and stormwater waivers of remonstrance, prior to Final Plat approval. 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 applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R5 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

Standards that apply to the land division. In this case, there are several Zoning Code standards that apply to the proposed land division. The standards of Section 33.430.160 Standards for Land Divisions and Planned Developments apply to the proposal. Conditions have been included for requirements that apply at the time of final plat and at the time of development. The applicant has demonstrated that the standards of Section 33.430.160 have been met. The standards listed below can be met with conditions of approval:

- Resource areas outside designated disturbance areas must be placed entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization (33.430.160.E).
- The combined total diameter of native trees cut in the environmental zone may not exceed 225 inches per dwelling unit (33.430.160.F). Native trees must be replaced as shown in Table 430-3. The applicant has proposed to remove trees #13 (40" Douglas fir), #14 (30" Douglas fir), #18 (22" Douglas fir), #19 (20" Douglas fir), #20 (13" Douglas fir), #31 (30" Douglas fir), and #32 (25" Douglas fir). Final inspection approval of a Zoning Permit, in substantial conformance with the Tree Preservation and Replacement Plan (Exhibit A.8), is required for this work.
- All vegetation planted in a resource area is native and listed on the Portland Plant List. Plants listed on the Nuisance Plant List are prohibited (33.430.140.L).
- Nuisance plants must be removed in an area of the site equal to 50 percent of the size of the permanent disturbance area within the environmental zone. The cleared area must be replanted with native plants (in quantities specified in code) selected from the Portland Plant List (33.430.140.L). This area equates to approximately 3,950 square feet. Therefore, an area of 1,975 square feet must be cleared of nuisance species and replanted.
- The front building or street setback of the base zone is the maximum building setback for primary structures (33.430.140.O). This standard applies to Lots 1-3.
- Fences are allowed only within the disturbance area (lots) (33.430.140.P).
- Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200-watt incandescent light) must be placed so they do not shine directly into resource areas (33.430.140.R). This standard applies to Lots 1-3.

OTHER TECHNICAL REQUIREMENTS

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

required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

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

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

- The applicant is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access, addressing, fire flow/water supply, aerial fire department access roads, and providing residential fire sprinklers for lots 1 and 2 if fire apparatus access cannot be met. These requirements are based on the 2021 Portland Fire Code (Exhibit E.4).
- The applicant must meet the requirements of Urban Forestry for paying a fee in lieu for the loss of 1 available street tree planting space, prior to final plat approval. This requirement is based on the standards of Title 11 (Exhibit E.6).

CONCLUSIONS

The applicant has proposed a 3-lot subdivision with a Private Street Tract (Tract A) and an Open Space (Environmental Resource) Tract (Tract B), as shown on the attached preliminary plans (Exhibits C.1-C.4). 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 are tree preservation, clearing/grading, services/utilities, and environmental standards for land divisions. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-lot subdivision, that will result in three standard lots, a Private Street Tract (Tract A), and an Open Space (Environmental Resource) Tract (Tract B) as illustrated with Exhibits C.1-C.4, subject to the following conditions:

- A. Supplemental Plan.** An additional supplemental plan shall be submitted with the final plat survey for Fire Bureau review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the following:

- The surveyed location of any buildings or accessory structures on the site at the time of the final plat application.
- The surveyed location of any driveways and off-street vehicle parking areas on the site at the time of the final plat application.
- The fire access lane with a turning radius of 28 feet inside, 48 feet outside, from both directions.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 111th Avenue. The required right-of-way dedication must be shown on the final plat.
2. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
3. A note must be provided on the plat indicating that the private street tract will be commonly owned and maintained by the owners of Lots 1 through 3 or a homeowners' association.
4. The environmental resource tract shall be noted on the plat as "Tract B: Open Space (Environmental Resource)." A note must also be provided on the plat indicating that the tract will be commonly owned and maintained by the owners of Lots 1 through 3 or be consistent with the ownership requirements of 33.430.160.E.
5. 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 Conditions C.7 through C.10 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

1. The applicant shall pay the Local Transportation Infrastructure Charge (LTIC) as it applies to SE 111th Avenue and complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant/owner during the final plat review process.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with the Proposed Improvements Plan (Exhibit C.3) and the Private Street Administrative Rule.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
4. The applicant shall provide a clearing and grading plan with the Site Development permit required for the private street described in Condition C.2. The clearing and

grading plan must substantially conform to the Erosion and Sediment Control Plan (Exhibit C.4) approved with this decision with the following additions:

- It must show stockpile areas;
 - It must note that topsoil must be stockpiled on site and re-used to the extent practicable.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lots 1 and 2, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new homes on Lots 1 and 2, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.
 6. The applicant must receive final inspection approval of demolition permits (20-198860 RS & 20-219985 RS) for the existing residences including capping of the existing sanitary sewer connections and decommissioning of existing septic systems on the site.
 7. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1 through 3 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
 8. A Maintenance Agreement shall be executed for Tract B, the Open Space (Environmental Resource) tract described in Condition B.4 above. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval. The agreement must also include:
 - a. assign common, undivided ownership of the tract to the owners of all lots, a homeowner's association or meet the requirements of 33.430.160.E;
 - b. include provisions for assigning maintenance responsibilities for the tract;
 - c. provisions assigning maintenance responsibilities for required plantings located within the tracts;
 - d. include a description of allowed/prohibited activities consistent with Chapter 33.430;
 - e. include conditions of this land use approval that apply to the tract.
 9. If required, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lots 1 and 2 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
 10. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lot 3. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.
 11. The applicant must obtain and finalize a Zoning Permit for clearing and planting within the environmental resource tract (Tract B) in substantial conformance with the Tree Preservation and Replacement Plan (Exhibit A.8) as follows:
 - Clearing at least 1,975 square foot area of nuisance species and replanting it with native grass seed mix, 7 groundcover plants and 2 shrubs per 50 square feet of cleared area, per 33.430.140.L.


- Replanting per 33.430.160.F and Table 430-3 for the removal trees #13 (40" Douglas fir), #14 (30" Douglas fir), #18 (22" Douglas fir), #19 (20" Douglas fir), #20 (13" Douglas fir), #31 (30" Douglas fir), and #32 (25" Douglas fir). The combined total diameter of native trees cut within the environmental zone may not exceed 225 inches per dwelling unit.
 - Trees must be minimum one-half inch in diameter, shrubs must be in at least one-gallon pots and groundcovers must be in at least 4 inch pots. All plants must be native species selected from the Portland Plant List.
 - The permit plans must show the location, size and species of the required plants. The plants must be inspected and Zoning Permit finalized prior to final plat approval.
 - All new plantings must be labeled "Required plantings, per LU 21-045879 LDS".
12. 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 Lot 3 shall be in conformance with the Erosion and Sediment Control Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.5). Specifically, trees #23 (20" Douglas fir), #24 (28" Douglas fir), and #25 (32" Douglas fir) are required to be preserved, with the root protection zones indicated on Exhibit C.4. 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 first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. The applicant must post the private street with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the Site Development permit.
5. 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.
6. If required, the applicant shall install residential sprinklers in the new dwelling units on Lots 1 and 2. Please refer to the final plat approval report for details on whether this requirement applies.
7. Development on the lots shall be in conformance with the following:
 - a. Prior to starting home construction on Lots 1 through 3, the applicant shall install 4-foot high temporary construction fencing along the rear lot line that abuts the Environmental Resource Tract. The fence must be shown on building permit plans. The fence shall remain in place until the final erosion control inspection is completed.
 - b. Fences are allowed only within lots (not within the resource tract).

- c. Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200-watt incandescent light) must be placed so they do not shine directly into resource areas. This condition applies to lots that abut any environmental zoning on the site.
8. The following apply to Environmental zones:
 - a. All vegetation planted in a resource area of environmental zones is native and listed on the Portland Plant List. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited.
 - b. Fences are not allowed within a resource area of environmental zones.

Staff Planner: Sean Williams

Decision rendered by:  **on February 23, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: February 25, 2022

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 May 10, 2021 and was determined to be complete on August 20, 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 May 10, 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 requested that the 120-day review period be extended, as stated with Exhibit A.3. Unless further extended by the applicant, **the 120 days will expire on: March 18, 2022.**

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. Land Use Review Application
 - 2. Land Division Narrative
 - 3. Request for Extension to 120-Day Review Period
 - 4. Lot of Record Deed
 - 5. Arborist Report
 - 6. Stormwater Management Report
 - 7. Geotech Roadbed Report
 - 8. Tree Preservation & Replacement Plan
 - 9. Geotech Slope Drainage Field Memo
 - 10. Applicant Bureau Replies
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Survey
 - 2. Subdivision Plat (attached)
 - 3. Proposed Improvements Plan (attached)
 - 4. Erosion & Sediment Control 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. Water Bureau
 - 4. Fire Bureau w/ Addendum
 - 5. Site Development Review Section of BDS w/ Addendum
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence:
 - 1. Adam Long – 10/6/21 (w/ PBOT response)
- G. Other:
 - 1. Original Application Submittal
 - 2. Incomplete Letter w/ RFC Responses

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).