



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: April 11, 2022
To: Interested Person
From: Sean Williams, Land Use Services
503-865-6441 / Sean.Williams@portlandoregon.gov

NOTICE OF A TYPE II_x 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 21-001335 LDS

GENERAL INFORMATION

Applicant: Paige Miller, Humber Design Group, Inc
117 SE Taylor Street, Suite 001
Portland, OR 97214
503-946-5328 \ paige.miller@hdgpdx.com

Owner/Agent: Brandon Brown, Timothy P Brown Trust
112 W 11th Street #100
Vancouver, Wa 98660

Site Address: 3969 S/ N Overlook Terrace

Legal Description: TL 400 0.34 ACRES, SECTION 21 1N 1E; TL 500 0.49 ACRES, SECTION 21 1N 1E

Tax Account No.: R941210390, R941210540

State ID No.: 1N1E21DC 00400, 1N1E21DC 00500

Quarter Section: 2628

Neighborhood: Overlook , contact Brian Yarne at landuse@overlookneighborhood.org

Business District: None

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877

Plan District: None

Other Designations: Potential Landslide Hazard Area

Zoning: Residential 5,000 (R5) w/ Environmental Conservation (c)

Case Type: Land Division Subdivision (LDS)

Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:
The applicant is proposing to subdivide the subject property into 3 lots, which will be 5,137 (Lot 1), 4,413 (Lot 2), and 7,225 (Lot 3) square feet in size. Three tracts are also proposed

including two open space - environmental resource tracts (Tracts A and B) and a tree preservation Tract (Tract C).

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (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 6 units of land (3 lots and 3 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 at the southern end of the Overlook Neighborhood on top of a bluff overlooking the Union Pacific railyard along the Willamette River. The site is void of any improvements. The only non-exempt tree within the land division site, a 55.5-inch Oregon White Oak, designated as a Heritage Tree (#259), is proposed to be preserved within a dedicated Tree Preservation Tract (Tract C). The surrounding vicinity is primarily developed with detached single-family residences. Overlook Park is approximately 1,000 feet southeast of the site.

Infrastructure:

- **Streets:** The site has approximately 240-feet of frontage on N Overlook Terrace. At this location, N Overlook Terrace is classified as a Minor Emergency Response Street, and Local Service Street for all other transportation modes in the City’s Transportation System Plan (TSP). Tri-Met provides transit service approximately 185-feet southwest of the site on N Greeley Avenue via Bus #35 and approximately 1,700-feet southeast of the site via the Yellow Max Line (Overlook Park transit station). At this location, N Overlook Terrace is improved with a 26-foot paved roadway surface and curb within a 60-foot right-of-way. There is no sidewalk along the site’s frontage.
- **Water Service:** There is no water service in N Overlook Terrace along the site’s frontage.
- **Fire Hydrants:** The nearest fire hydrant is located at 3943 N Overlook Boulevard and has a hydrant flow of 1,700 gpm at 20 psi. A second fire hydrant is located at 4048 n Overlook Terrace and has a hydrant flow of 1,100 gpm at 20 psi. The combined flow is 1,900 gpm at 20 psi.
- **Sanitary Service:** There is an existing Public 8-inch PVC combined sewer main in N Overlook Terrace (BES as-built # 5876).
- **Stormwater Disposal:** There are no public storm-only sewers available to this property. The combined sewer described above provides the only offsite discharge location available for stormwater.

Zoning: The Residential 5,000 (R5) designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Environmental overlay zones (“c” and “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 be sensitive to the site’s protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive.

The Environmental Conservation overlay zone (“c”) conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development.

This Land Use Review is subject to the zoning and code in effect at the time of application.

Land Use History: City records indicate the following prior land use reviews for this site:

- **LUR 97-01152:** Proposal to divide what is currently tax accounts R316019 and R316028 into 4 lots. This case was withdrawn.
- **LU 18-135663 LDS:** Denial of a preliminary plan for a 6-lot subdivision with environmental resource and tree preservation tract.
- **LU 19-111625 LDP:** Approval of a Preliminary Plan for a 2-parcel partition to create two standard lots for detached houses with an Environmental Resource Tract (Tract A). This partition occurred on adjacent property (3969 N Overlook Terrace) under the same ownership that was a part of the previous land division proposal. The Final Plat for this partition has been recorded.

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 **December 2, 2021**. Written responses have been received from the Friends of Overlook Bluff, including legal representation, Arborists, the Neighborhood Association, and notified property owners in response to the proposal (Exhibits F.1-F.8).

The main area of concern expressed is regarding preservation of the 55.5-inch Oregon white oak heritage tree. Generally, all the responses contend that the root protection zone associated with this tree should be much greater based on numerous citations. Per findings associated with Tree Preservation approval criteria below and evidence in the record, the applicants Arborist makes the case that the proposed root protection zone, located entirely within a Tree Preservation Tract, is sufficient to protect the long-term health and viability of the Oregon white oak heritage tree. Urban Forestry concurred with the applicants’ findings subject to conditions of approval. Therefore, the Tree Preservation approval criterion was determined to be met.

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.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.

F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	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.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. The maximum density in the R5 zone is one unit per 5,000 square feet. Because the site is within the potential landslide hazard area there is no minimum density. Based on the applicant's survey, the site area is 37,010 square feet. Therefore, the site has a maximum density of 7 units. The applicant is proposing 3 lots for single-dwelling development. 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	5,137		42	120	42
Lot 2	4,413		36	121	36
Lot 3	7,225		66	104	46

* 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, as far as practicable, the proposed lot lines are straight with all side lot lines being perpendicular to the street. Only the rear lot lines are irregular based on requirements to place the resource area of the Environmental zone within a tract. 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. 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 an Existing Conditions Survey (Exhibit C.4) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2) that identifies the one non-exempt tree within the land division site, which includes an evaluation of its condition, suitability for preservation, and root protection zones and tree protection measures.

The applicant proposes to preserve the sole non-exempt tree within the land division site, a 55.5-inch Oregon White Oak, which is designated as a Heritage Tree (#259). Preservation of this tree meets Option 1 of the Minimum Tree Preservation Standards (33.630.100.1). In order to demonstrate how the proposed tree plan will meet the Tree Preservation Approval Criteria of 33.630.200, the applicant has provided the following findings (Exhibit A.3):

A. To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native, or non-nuisance trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area should be considered and may call for different priorities, such as native tree growth rates and priority tree sizes as described in the Portland Plant List, buffering natural resources, preventing erosion or slope destabilization, and limiting impacts on adjacent sites.

There is only one tree on the property which is to be preserved by the creation of a Tree Preservation Tract which will more than adequately protect the tree during the construction of homes on the adjoining lots as well as into the future.

B. Trees proposed for preservation are suitable based on their health, overall condition, and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species.

There is only one tree on the property that is to be preserved which is a City of Portland Heritage Tree. The tree is a 54-inch diameter Oregon white oak (Quercus garryana) that is in good health and structural condition. The tree is growing on an open meadow with a slope to the southwest which is mostly off property. The section that is located on the property will be within a tract to protect the environmental conservation overlay.

The soil on the site per the Natural Resources Conservation Service is a Latourell sandy loam with a lower layer of very gravelly sandy loam up to 80 inches deep, considered a well-draining, deep soil, very well suited for root growth which would limit the need for the tree to spread its roots laterally.

Given the soil on the site and the area that is to be set aside as a Tree Preservation Tract for the oak, it is expected that this tree will continue to thrive for many years to come. The Oregon oak is a species that can live to be 500 years old. The age of the existing tree is not known but estimated to be between 150 and 250 years.

The area set aside for the tree on its own Tree Preservation Tract is equal to the tree protection area, set as a radius in all directions equal to at least 12 times the tree's diameter from the tree trunk face plus additional area, 65.5 feet to the rear (SW) and 73 feet to the front (NE). There is no reason that the tree will not thrive through to its natural life span. In addition, the additional steps to be taken during the construction of homes on lot 1 and 2, additional area will be protected beyond the Tree Preservation Tract to ensure that there is no impact to the tree or its roots.

C. Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following: 630-3 Chapter 33.630 Tree Preservation

A Tree Preservation tract has been set aside for the tree equal to a radius twelve times the diameter of the tree from its trunk face in all directions plus the area to the rear and front of the tree. There will be no construction or any other activity within the Tree Preservation Tract. In addition, the design of the home foundations on lot 1 and 2, adjacent to the Tree Preservation Tract will be done utilizing hydraulic excavation to ensure that any roots larger than one inch diameter that may be encountered can be avoided.

1. The specific development proposed.

The tree to be preserved, the Oregon white oak, a heritage tree, is to have a Tree Preservation Tract set equal to the tree protection area plus the area to the rear of the tree to the property line and to the front of the tree to the property line toward the street. Adjacent to the tree tract will be two lots where houses are to be built whose foundations toward the site of the Tree Preservation Tract that have been designed specifically to limit any impact to the tree and its roots. Design features for the home could include bridging foundations or grade beams to minimize even the slightest impact to any roots from the tree.

2. The uses and intensity of development expected in the zone and the area in which the site is located.

As mentioned above, a Tree Preservation Tract is to be set to adequately protect the heritage Oregon white oak which is to be set to prevent any development from occurring within the tree protection of the tree plus area behind and to the front of the tree.

3. Requirements to provide services to the site under Chapters 33.651 through 33.654, including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated.

There will be a Tree Preservation Tract set aside for the tree where there will be no impacts to the tree. There are no roads or utilities to be installed within the tree tract or even on the adjoining lots on the sides of the lots adjacent to tree tract. Any construction activity on the lots adjacent to the tree tract will be done to limit any possible impact to the tree. The foundations of the new homes will be designed to limit the need to excavate on the side of the house toward the tree tract. The garages and garages for the new homes will be positioned to limit the excavation on the side of the lots toward the tree tract. The rainwater treatment facilities for lot 1 and 2 will be on the sides of the lots opposite the tree tract. All utilities are to

be installed on the sides of the lots opposite of the tree tract.

4. Requirements to protect resources in Environmental, Pleasant Valley Natural Resources, or Greenway Natural, Water Quality, and River Environmental overlay zones. Protection of environmental resources and retention of benefits from trees should be maximized for the site as a whole; and

There environmental conservation zone on the property which has been set aside as Environmental Resource Tract A which is toward the back or SW side of the property. There has also been a Tree Preservation Tract set up to ensure that the heritage Oregon white oak is fully protected during the construction of the homes on lot 1 and 2 as well as into the future.

5. Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.

There are no other constraints that could conflict with the goal of fully protecting the heritage Oregon white oak as a Tree Preservation Tract that is more than ample has been designated to protect the tree now and into the future. In addition, the construction of the homes on lots 1 and 2 will be done in a manner that will limit impacts to the soil on the side toward the tree preservation tract.

In addition to recommendations for protection, the applicant's arborist report includes results of air excavation of root test pits outside of the root protection zone of the heritage tree evaluated against several publications regarding root protection zones necessary for successful tree protection. A review of five construction projects that impacted a total of 9 Oregon white oaks in the region from 2013 to present is also included. The results of these assessments conclude that it is feasible to construct homes on either side of the heritage tree (Lots 1 and 2) if no construction activity occurs within 55.5 feet of the face of the tree's trunk with little, if any, impact to the tree. Specific tree protection requirements are included in the appendices of the Arborist Report in addition to the Preliminary Clearing and Grading Plan that must be adhered to during the development process.

The Urban Forestry division of Portland Parks has evaluated the applicants' submittals and provided the following response (Exhibit E.6):

*There is a Heritage Oregon white oak tree (*Quercus garryana*) located on the site that is on the City of Portland's Heritage Tree list - #259. This tree must be preserved unless removal is approved by the Urban Forestry Commission. The applicant has submitted a protection plan for how the Heritage tree will be protected in the lot where the Oregon white oak is located and through the future developments in the lots adjacent to this lot.*

In the previous Land Division proposal for this site Urban Forestry established that the Root Protection Zone for the Heritage Oregon white oak must follow the Prescriptive Path for protection tree protection (11.60.030). This excluded development to take place within one foot of the face of the tree for every inch of the tree trunk located at breast height (4.5 feet from the ground) and that no encroachments in the RPZ would be permitted. This remains the minimum for the Root Protection Zone required around the Heritage oak and is what is shown in the site plans.

The Heritage Oregon white oak was measured by Urban Forestry staff on 12.22.21 to be approximately 55.5 inches in diameter.

In the Teragan and Associates arborist report dated October 7th, 2020 it was demonstrated that there were some small roots extending beyond 54 feet from the Heritage oak. This showed that some consideration for additional root impacts and protection should be taken into consideration while evaluating possible development on Lots 1 and 2.

The applicant has submitted three arborist reports that provide additional information on the location of roots outside of 54 feet from the tree and outline additional protection measures to be put in place during the development of the structures on proposed Lots 1 and 2. This have been added to the provided site plans c1.00 and c3.00 and show that additional measure will be taken to protect the roots of the oak that are located beyond the fenced Tree Protection area.

Teragan and Associates provided recommendations for additional root protection measures including implementing alternative foundation designs that reduce the root impacts in the footprints of the new structures, shifting utilities, and adding geotextile fabric with mulch over the other areas of the two lots to protect roots (see page 10 of 2020 arborist report). These additional protection measures are important as they reduce the impacts to the Heritage tree roots beyond the root protection area established by the Prescriptive Path. Identifying and protecting potential roots within the footprints of the building must considered while determining building designs. Urban Forestry will review potential root impacts and foundation designs that best protect the Heritage Tree while also meeting required geotechnical requirements.

Based on the foregoing, Urban Forestry concurs that the recommended root protection zone of 55.5-feet from the face of the trunk of the tree, which is located entirely within the Tree Preservation Tract, is sufficient to protect the health and long-term viability of the heritage Oregon white oak tree. To ensure that future owners of Lots 1 through 3 and the Tree Preservation Tract 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 Lots 1 and 2 must be carried out in conformance with the Preliminary Clearing and Grading Plan (Exhibit C.1), the Arborist Report (Exhibit A.2), and Tree Preservation Approval Criteria document (Exhibit A.3).

With the implementation of the noted conditions, the approval criteria will be met.

D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.

Findings: The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

In order to evaluate the proposal against this criterion, the applicant has submitted a Geotechnical Investigation and Landslide Hazard Analysis dated November 22, 2017 and Overlook Project Completeness Review dated May 15, 2018 (Exhibit A.8). Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated these studies and provided the following findings (Exhibit E.5):

The site is located in the Potential Landslide Hazard Area. The following approval criterion of Section 33.632.100 must be met: Locate the lots, buildings, services and utilities on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

Site Development reviewed Geotechnical Investigation and Landslide Hazard Analysis dated November 22, 2017 and the Overlook Project Completeness Review dated May 15, 2018. Both documents were authored by Geo Consultants Northwest. Several outstanding technical questions regarding the slope stability analyses and recommended foundation design remain unclear or unanswered. However, the outstanding questions do not affect whether the lots can be developed in a manner that reasonably limits the risk of a landslide affecting the site,

but how the lots can be developed in a manner that reasonably limits the risk of a landslide affecting the site. Site Development will continue review the geotechnical engineering and foundation design at the time of building permit application for individual lots. Deep foundations, retaining walls, ground improvement, or other engineering solutions may be necessary to develop the lots in a manner that reasonably limits the risk of a landslide affecting the site. We concur with the opinion of Geo Consultants Northwest that the lots can be developed in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across the street. A geotechnical report specific to the development proposed on each lot will be required at the time of application for building permits.

Based on the foregoing, Site Development has determined that the lots, buildings, services, and utilities are located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street from the site. Further geotechnical evaluation will be required for development of new structures on individual lots. Subject to a condition of approval, this criterion can be met.

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

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

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

Clearing and Grading:

In this case, the site has steep grades (over 20%), and is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

In order to address this approval criterion, the applicant submitted a Preliminary Clearing and Grading Plan (Exhibit C.1). Additionally, a Landslide Hazard Analysis dated November 22, 2017 and the Overlook Project Completeness Review dated May 15, 2018 (Exhibit A.8) were also submitted that describe how clearing and grading should occur on the site to minimize erosion risks. The Preliminary Clearing and Grading Plan designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved, and an arborist report was provided for the tree to be protected on-site (Exhibit A.2) in addition to an arborist report describing protection methods for an off-site tree (Exhibit A.4). that each discuss clearing/grading on the site

Both the applicant's geotechnical engineer and arborist recommend that the amount of grading work occurring on the site be minimized as much as possible. The Preliminary Clearing and Grading Plan (Exhibit C.1) demonstrate areas of clearing, which are limited to excavation for the foundations of the new houses and trenching for the utilities, installation of silt fencing, and areas of proposed stockpiling. This plan indicates that no grading will occur so all existing contours will be left intact. Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns. Stormwater runoff from the newly developed lots will be appropriately managed by collection and discharge into the public system to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

No clearing and grading will be permitted within the root protection zone of the Oregon white oak heritage tree to be preserved, which is located entirely within the Tree Preservation Tract. Preserving this tree will help limit erosion by assuring that the tree roots will help to hold the soil in place. In addition, a separate arborist report (Exhibit A.4) has identified a 33.5-inch Port Orford Cedar on adjacent property addressed 3909 N Overlook Terrace that is within 15-foot potential disturbance area on the proposed Lot 3. In order to protect the off-site trees from construction impacts, the arborist recommends root protection fencing on Lot 3, which is reflected on the tree preservation plan.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. The Site Development Section of the Bureau of Development Services will require a geotechnical report specific to the development proposed on each lot at the time of application for building permits. Site Development will review the geotechnical reports against the applicant's Landslide Hazard Study to assure that any erosion risks are limited. In addition the plans will be reviewed for compliance with the applicant's Preliminary Clearing and Grading plan and arborist report. This criteria is met.

Land Suitability: The site is currently vacant with adjacent residential uses, and there is no record of any other use in the past. The site contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for development. 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:

- Tract A: Open Space (Environmental Resource Area)
- Tract B: Open Space (Environmental Resource Area)
- Tract C: Tree Preservation Tract

Per Environmental Standards for Land Divisions, a condition of approval will be required to document that Tracts A and B be owned in common by the owners of Lots 1 through 3, by a Homeowners' Association, by a public agency, or by a non-profit organization (33.430.160.E). The applicant has not proposed but may define ownership for the Tree Preservation Tract (Tract C) at the time of Final Plat in accordance with the requirements of 33.636.100.A.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the tracts described above and facilities within those areas. This criterion can be met with the condition that maintenance agreements are prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreements with a recording block for each agreement, 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):

Street Capacity and Levels of Service

The proposal will result in an increase of 3 single-family residences. These residences can be expected to generate 30 daily vehicle trips with 3 trips occurring in each of the AM and PM Peak Hours. This small increase in peak hour vehicles will not have significant impact on intersection levels of service or street capacity. No mitigation is needed.

Connectivity

The steepness of the slope and the environmental overlay zone prevents the feasibility of constructing an ADA compliant pedestrian connection down to N Greely. The connectivity requirements do not need to be met for this site.

Vehicle Access/Loading

The new lots will have driveways to provide access to parking and loading.

On-Street Parking Impacts

The new lots will have at least one on-site parking space with potentially an additional space in front of the garage. Impacts to the on-street parking supply should be minimal.

Availability of Transit

The Tri-Met Yellow Max line is available to serve the site ½ mile away at the Expo Center and Overlook Park Max stations.

Neighborhood Impacts

The site is being developed with an increase of 3 new single-family residences in compliance with the existing R5 zoning. In addition, standard frontage improvements including sidewalks will reduce the potential for conflicts between pedestrians and vehicles.

Safety

New sidewalks along the site frontage on N Overlook Terrace will provide adequate pedestrian facilities.

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:

33.651 Water Service standard – See Exhibit E.3

There is no existing water service in N Overlook Terrace along the site's frontage. The applicant must make arrangements to extend a new water main in N Overlook Terrace from the main to the north to serve Lot 1 and from the main to the south to serve Lots 2 and 3. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval.

The Fire Bureau has verified the fire flow of nearest fire hydrants and provided requirements for development on Lots 2 and 3, identified under the technical requirements section of this decision.

With the condition of approval noted above, the water service standards of 33.651 have been verified and this criterion can be 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 combined sewer main in N Overlook Terrace (BES as-built # 5876), as noted on page 2 of this report. BES reviewed the Proposed Improvement and Utility Plan, and provided the following response:

Proposed Development: Lots 1-3 will be served by individual connections to the combined sewer in N Overlook Terrace within their frontages.

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 Exhibits E.1 & E.5

No stormwater tract is proposed or required. BES reviewed the applicant's Proposed Improvement and Utility Plan (Exhibit C.3) and Stormwater Memo (Exhibit A.6) 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 SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the submitted Stormwater Memo and attached Simplified Approach forms from Humber Design Group, Inc. (dated 12/1/20). Based on steep slopes and landslide concerns on this site, onsite infiltration is not feasible. Therefore, the applicant proposes for runoff from the development to be discharged offsite to the combined sewer after pollution reduction and flow and volume control standards are met with individual planters sized per the Simplified Approach. The proposed conceptual stormwater approach is acceptable to BES.

PBOT requires construction, expansion or replacement of sidewalk behind the existing curb in N Overlook Terrace, which qualifies for payment of an offsite management fee-in-lieu of building public stormwater facilities. BES staff has reviewed the submitted Staff-Review Special Circumstances application form, which indicates the applicant's intent to pay the offsite management fee. Therefore, no public stormwater facilities will be built for the qualifying frontage. This information is adequate for the purpose of this land use review. However, if the applicant decides at a future stage to build facilities instead of paying the offsite management fee, this change may impact right-of-way dedication amounts and/or necessitate revisions to the land use decision. Payment of the offsite management fee will occur with the Public Works Permit.

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

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against this criterion and has provided the following findings (see Exhibit E.2):

The steepness of the slope and the environmental overlay zone prevents the feasibility of constructing an ADA compliant pedestrian connection down to N Greely. The connectivity requirements do not need to be met for this site.

For the reasons described above, this criterion can be met.

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

33.654.120.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.

At this location, N Overlook Terrace is improved with a 26-foot paved roadway surface and curb within a 60-foot right-of-way. There is no sidewalk along the site's 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. In this case, Portland Transportation has determined that sidewalk improvements must be made in order to meet City standards and ensure that safe pedestrian travel is possible to and from the proposed development. The sidewalk along the frontage the Tree Preservation tract (Tract C) must be constructed prior to Final Plat approval. The sidewalk along the remaining frontage of the site will be constructed at the time of development of each individual lot. Note, a small section of the frontage along Lot 3 lacks a curb, which must be constructed via a public works permit at the time of development of this lot. No dedication is required to accommodate the improvements.

Urban Forestry evaluated the provision of street trees and planting areas for the public right-of-way and determined that adequate areas for future street tree planting will be available in conjunction with sidewalk improvements along the frontage of each lot/tract.

Based on the foregoing, the width of the right-of-way will be sufficient to accommodate the expected users. This criterion is met, with the condition that sidewalk improvements are made, as noted above.

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-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 site is currently vacant, 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.

- Resource areas outside designated disturbance areas must be placed entirely within an environmental resource tract. The tract 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).
- 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 6,750 square feet. Therefore, an area of 3,375 square feet must be cleared of nuisance species and replanted.
- The minimum front and street building setback and garage entrance setback of the base zone may be reduced to any distance between the base zone minimum and zero. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to any distance between the base zone minimum and zero. Parking spaces may be allowed within the first 10 feet from a front lot line and within a minimum side street setback (33.430.140.M).
- The front building or street setback of the base zone is the maximum building setback for primary structures (33.430.140.N).
- Fences are allowed only within the disturbance area (lots) (33.430.140.O).
- Exterior lights within the environmental zone 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.Q).

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development

	Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to aerial fire department access roads, addressing, and recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 2 and 3 to satisfy fire flow/water supply requirements. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1 (Exhibit E.4).

CONCLUSIONS

The applicant has proposed a 3-lot subdivision with Environmental Resource Tracts (Tracts A & B) and a Tree Preservation Tract (Tract C), as shown on the attached preliminary plans (Exhibits C.1-C.3). 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: Potential Landslide Hazard Area, Tree Preservation, and Services/Utilities. 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, two Environmental Resource Tracts (Tracts A & B) and a Tree Preservation Tract (Tract C), as illustrated with Exhibits C.1-C.3, subject to the following conditions:

A. The Final Plat must show the following:

1. The environmental resource tracts shall be noted on the plat as "Tract A & B: Open Space (Environmental Resource)." A note must also be provided on the plat indicating that the tracts will be commonly owned and maintained by the owners of Lots 1-3 or be consistent with the ownership requirements of 33.430.160.E.
2. The Tree Preservation tract shall be noted on the plat as "Tract C: Tree Preservation. A note must also be provided on the plat indicating ownership of the tract in conformance with 33.636.100.A.
3. 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 B.3-B.6 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."

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

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's N Overlook Terrace frontage. The applicant must obtain

approved permits from the Portland Bureau of Transportation to install the required sidewalk corridor including street tree planting per the requirements of Urban Forestry. The improvements along the frontage of the Tree Preservation Tract (Tract C) must be constructed prior to final plat approval. The improvements along the frontage of the undeveloped lots may be constructed with development on each lot as per the City Engineer's discretion.

2. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for water main extensions in N Overlook Terrace.
3. A Maintenance Agreement(s) shall be executed for Tracts A & B, the Environmental Resource tracts described in Condition A.1 above. The agreement(s) 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.
4. A Maintenance Agreement shall be executed for the Tree Preservation Tract (Tract C) described in Condition A.2 above. The agreement shall describe the tree preservation requirements and restrictions on development and include provisions assigning maintenance responsibilities for the tract consistent with the purpose of the tract, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
5. The applicant shall meet Fire Bureau requirements for adequate fire flow by executing an Acknowledgement of Special Land Use conditions requiring residential development on Lots 2 and 3 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
6. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 1, 2, and Tract C. 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.
7. The applicant must obtain and finalize a Zoning Permit for clearing and planting within the environmental resource tracts as follows:
 - Clearing a 3,375 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.
 - 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 the Zoning Permit must receive final inspection approval prior to final plat approval.
 - All new plantings must be labeled "Required plantings, per LU 21-001335 LDS".
8. The applicant must install protective fencing around the perimeter of the tree preservation tract as shown on the Preliminary Clearing and Grading Plan (Exhibit C.1). The fence must be 6-foot-high chain link and be secured to the ground with 8-foot

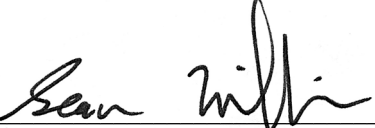
metal posts driven into the ground. Prior to final plat the applicant must receive final inspection approval of a Zoning Permit verifying that the fencing has been installed.

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

1. Development on Lots 1 through 3 shall be in conformance with the Preliminary Clearing and Grading Plan (Exhibit C.1), the applicant's arborist report (Exhibit A.2) and Tree Preservation Approval Criteria document (Exhibit A.3). Specifically, the 55.5-inch Oregon white oak heritage tree located in Tract C is required to be preserved, with the root protection zone indicated on Exhibit C.1. Tree protection fencing is required around the perimeter of the Tree Preservation Tract. The fence must be 6-foot-high chain link and be secured to the ground with 8-foot metal posts driven into the ground. No encroachments are allowed within Tract C or the root protection zone unless specifically authorized by Urban Forestry.
 - a. Area not to be covered by structures, but outside of the tree protection fencing, must be covered with 12" depth of wood chips over geotextile fabric or fenced off to prevent soil compaction, unless directed otherwise by the Urban Forester. Wood chips and fabric to be removed at the end of the project with up to a 4" depth of wood chips that could remain without fabric beneath them.
 - b. Overall hydrology of the site may not be changed through soil augmentation or irrigation without permission from Urban Forestry.
 - c. See Arborist Report (Exhibit A.2) Appendix 3 for additional tree protection steps including requirements pre, during, and post construction.
 - d. Driveways, utilities, and stormwater facilities shall be positioned on Lots 1 and 2 to limit excavation on the side of the lots adjacent to the Tree Preservation Tract to the extent practicable.
 - e. Urban Forestry shall review potential root impacts and foundation designs for homes on Lots 1 and 2 that best protect the Heritage Tree while also meeting required geotechnical requirements.
2. Development on Lot 3 shall be in conformance with the Preliminary Clearing and Grading Plan (Exhibit C.1) and the Tree Protection Plan for Port Orford Cedar (Exhibit A.4). Tree protection fencing shall be installed on Lot 3 as indicated on Exhibit C.1. The fence must be 6-foot-high chain link and be secured to the ground with 8-foot metal posts driven into the ground.
3. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of Lots 1 through 3 including street tree planting.
4. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
5. The applicant will be required to install residential sprinklers in the new houses on Lots 2 and 3 to the satisfaction of the Fire Bureau.
6. A geotechnical report will be required for development of new structures on Lots 1 through 3 to the satisfaction of the Site Development section of BDS.
7. Development on lots shall be in conformance with the following:
 - f. 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.
- g. Fences are allowed only within lots (not within any of the tracts).
 - h. Exterior lights within the environmental zone on lots 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.

Staff Planner: Sean Williams

Decision rendered by:  **on April 7, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 11, 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 January 4, 2021 and was determined to be complete on July 6, 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 January 4, 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.11. Unless further extended by the applicant, **the 120 days will expire on: July 6, 2022.**

Note: 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.

Appealing this decision. This decision may be appealed to the Hearings Officer, and if appealed a hearing will be held. The appeal application form can be accessed at

<https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on April 25, 2022. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

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. Approval Criteria
 - 2. Arborist Report
 - 3. Tree Preservation Approval Criteria (2/4/22)
 - 4. Tree Protection Plan for Port Orford Cedar
 - 5. Stormwater Memo (12/1/20)
 - 6. Stormwater Memo (11/23/21)
 - 7. Staff Review Special Circumstances Application Form
 - 8. Geotechnical Investigation and Landslide Hazard Analysis & Overlook Project Completeness Review
 - 9. LD Submittal Revision Changes (11/23/21)
 - 10. LD Submittal Revision Changes (2/4/22)
 - 11. Request for Extension of 120-Day Review Period
 - 12. Tree Preservation Approval Criteria (11/18/21)

- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Clearing and Grading Plan (attached)
 - 2. Proposed Lot Layout Plan (attached)
 - 3. Proposed Improvements and Utility Plan (attached)
 - 4. Existing Conditions Survey
 - 5. Original Plan Set
 - 6. 11/23/21 Plan Set
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division (1/4/22 & 2/22/22)
 - 7. Life Safety Plans Examiner
- F. Correspondence:
 - 1. Friends of Overlook Bluff w/ Petition (12/28/21)
 - 2. Kevin Hillery (12/28/21)
 - 3. Gregg Everhart (1/3/22)
 - 4. Overlook Neighborhood Association
 - 5. Phyllis Reynolds (12/28/21)
 - 6. Zach DiCicco (1/3/22)
 - 7. Rick Till (12/29/21)
 - 8. Jeffrey L Kleinman (1/3/22)
- G. Other:
 - 1. Original LU Application
 - 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).