



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

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Date: July 5, 2022
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NOTICE OF A TYPE IIx 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 21-109219 LDS

GENERAL INFORMATION

Applicant: 3J Consulting, Inc. contact: John Howorth
9600 SW Nimbus Avenue #100, Beaverton, OR 97008
503-577-8176, john.howorth@3j-consulting.com

Payor: Alera Management Group, LLC
5800 SW Meadows Road, Suite 230, Lake Oswego, OR 97035

Property Owner: NW McCoy Inc.
13610 SE Steele Street, Portland, OR 97236

Owner's Representative: Charlotte Landers
818 SE 3rd Avenue, Portland, OR 97204

Site Address: 4510 SE 128th Avenue
Legal Description: TL 700 1.89 ACRES, SECTION 14 1S 2E
Tax Account No.: R992140060
State ID No.: 1S2E14BA 00700
Quarter Section: 3543

Neighborhood: Powellhurst-Gilbert, contact at pgnaboard@gmail.com
Business District: Midway, contact info@midwaybusiness.org
District Coalition: East Portland Community Office, contact at info@eastportland.org

Zoning: Residential 10,000 (R10)
Plan District: Johnson Creek Basin
Other Designations: flood hazard

Case Type: Land Division-Subdivision (LDS)
Procedure: Type IIx, an administrative decision with appeal to the Hearings Officer.

Proposal: The applicant proposes a **Land Division-Subdivision** to divide the approximately 81,882 square foot site into 6 lots, as shown on the attached preliminary plat. A flood hazard

tract (Tract A) is also proposed to encompass the designated flood hazard area on the southeast portion of the site. An existing house is proposed to remain on Lot 1; all other existing outbuildings are proposed to be removed.

Right-of-way dedications and improvements are proposed along the SE 128th Avenue and SE Holgate Boulevard frontages.

In order to show feasibility of providing services and other criteria, the applicant has provided a conceptual development plan for single dwelling houses on Parcels 2-6, with on-site parking accessed via a shared driveway from SE 128th Avenue. Please note that as a corner lot, Lot 1 qualifies for additional density under the Residential Infill Options (33.110.265); and on-site parking is not required on any of the lots (33.266.110).

Trees on the site are regulated by the Land Division Tree Preservation requirements (33.630) and the Johnson Creek Tree Removal Standards (33.537.125).

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) four to ten lots are proposed (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 7 units of land (6 lots and 1 tract). 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 subject site is located in the southeast corner of the intersection of SE Holgate Boulevard and SE 128th Avenue. The site a relatively flat, rectangular property, approximately 81,882 square feet in area. The east portion of the site has a slight downward slope to the southeast corner, which is within the floodplain. A single-story house and several outbuildings (shed, carport) are located on the west half of the site. A variety of trees are located along the north and west sides of the property and around the existing residence.

The street pattern in the area includes some major corridors, but is otherwise fragmented and incomplete. Surrounding development consists primarily of one and two story residences in single dwelling zones; Gilbert Heights Elementary and Gilbert Heights Community Garden are located directly north across SE Holgate Boulevard; higher density mixed commercial and residential development is located along the SE 122nd Avenue corridor, approximately 1,400 feet to the west. Other nearby features within a ½ mile of the site include Powell Butte Nature Park to the east and the Springwater Corridor to the south.

Infrastructure:

Streets – The site has approximately 380 feet of frontage on SE Holgate Boulevard and approximately 215 feet of frontage on SE 128th Avenue. Several driveways enter the site via SE 128th Avenue. At this location, the site is not in a pedestrian district and the City’s Transportation System Plan (TSP) classifies the abutting rights-of-way as follows:

- SE Holgate Boulevard as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, and Local Service Freight Street.
- SE 128th Avenue as a City Bikeway, Neighborhood Walkway, and Local Service for all other modes.

Along the site’s frontages, SE Holgate Boulevard is improved with a 35-foot wide paved roadway surface with no curb or sidewalk. The roadway is striped for two travel lanes and two bicycle

lanes; and SE 128th Avenue is improved with a 28-foot wide paved roadway with no curb or sidewalk.

Tri-Met provides transit service along the SE Holgate Boulevard frontage via Line 17; and along SE 122nd Avenue, approximately 1,400 feet to the west, via Line 73.

Water Service – There are existing 8-inch CI water mains in SE 128th Avenue and SE Holgate Boulevard. The site is currently served through a 5/8-inch meter on a ¾-inch service.

Fire Hydrants – The nearest fire hydrant and hydrant flows are:

*** All flows provided below are at the minimum 20 psi residual pressure. ***

- The hydrant at the SE corner of SE 128th & Holgate Blvd can provide 2,300 gpm.
- The hydrant at the NE corner of SE 130th & Holgate Blvd can provide at least 2,500 gpm.
- The hydrant at the NE corner of SE 128th & Long St can provide at least 2,500 gpm.
- Flowing simultaneously, these three (3) hydrants can provide a combined flow of 5,900 gpm.

Sanitary Service – There is an existing public 48-inch concrete (CSP) sanitary-only sewer in SE Holgate Boulevard (BES as-built #4410); and a public 48-inch concrete (CSP) sanitary-only sewer in SE 128th Avenue (BES as-built #4410).

Stormwater Disposal – There is no public storm-only sewer currently available to this property. Per pending Public Works Permit (PWP) #EP673 TH1194, stormwater from the public right-of-way will be managed with installation of vegetated storm facilities in SE 128th Avenue and SE Holgate Boulevard.

Zoning: The site is situated in the **Residential 10,000 (R10)** zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

The site is within the **Johnson Creek Basin Plan District**, which is intended to provide for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

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 **February 16, 2022**. No written responses have been received.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
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	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.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 R10 zone. Based on the applicant's survey, the site area is approximately 81,882 square feet.

In the R10 zone, the maximum density is one unit per 10,000 square feet; and the minimum density is one unit per 10,000 square feet based on 80 percent of the site area, generally. In this case, the area of the site within the flood hazard area (29,994 square feet) is subtracted when calculating minimum density, therefore the minimum density is based on 41,510 square feet (80 percent of 51,888 square feet). Based on these factors, the site has a maximum density of 8 units and a minimum required density of 4 units. The applicant is proposing 6 lots, so the density standards are met.

As shown in the following table, the proposed lot dimensions are consistent with the standards:

Zone	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R10	6,000	17,000	50	60	30
Lot 1	9,860		84	117	84
Lot 2	7,041		60	117	60
Lot 3	6,946		59	117	59
Lot 4	8,624		56	154	56
Lot 5	8,284		56	151	56
Lot 6	6,147		60	100	60

* 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.

Further, except for the rear lot lines of Lots 5 and 6, which are angled to following the flood plain boundary, all other lot lines are straight and all side lot lines are perpendicular to the street, so the regular lot line provisions are met to the extent practicable.

Overall, the applicable density and lot dimension standards are met. 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 plan (Exhibit C3) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report and tree calculations (Exhibits A4a and A4b), which identify 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, fourteen trees, which provide a total of 191 inches of tree diameter are subject to the preservation requirements of this chapter. As shown in the applicant's table, below, six trees, noted in black (Trees 9, 10, 15, 16, 27 and 28), are slated for preservation. Of the other eight trees, noted in red, six are proposed for removal to accommodate right-of-way improvements (Trees 3, 18, 19, 20, 22, 23) and two others (Trees 7 and 8) are noted as being within the center of the development area on Lot 2.

ID	DBH	Tree Species
3	9	Red Maple Cultivar
7	10	Japanese Maple
8	23	Persian Silk Tree
9	13	Douglas Fir
10	15	Domestic Plum
15	21	Domestic Apple Tree
16	6	Domestic Apple Tree
18	8	Dawn Redwood
19	9	Austrian Pine
20	20	Oregon Myrtle
22	9	Cherry Plum
23	8	Oregon Myrtle
27	21	Colorado Blue Spruce
28	19	Colorado Blue Spruce
Total Tree Diameter of Site: 191 Inches		

Based on the arborist report, the trees proposed for preservation are in fair to good condition and include native/non-nuisance species. The applicant proposes to retain 50 percent of the trees that are 20 or more inches and 95 inches of the total tree diameter, so the proposal complies with: *Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.* Given the extensive right-of-way changes, it doesn't appear practical to protect additional regulated trees long term.

Given their proximity to new sidewalk construction, the arborist proposes Title 11-Performance Path measures to protect Trees 15, 27 and 28, and indicates those trees will need qualified arborist oversight for any development activity, including all surface disturbance, within 15-ft of the base of the trees.

The arborist report indicates the Title 11-Prescriptive Path protection measures will be provided for Trees 9, 10 and 16, but then indicates root protection zones that are a departure from those standards. Based on the proposed location for the shared access and utility easement, it appears some slight reduction in the Prescriptive Path standards is reasonable for Tree 10, in accordance with the arborist's recommendations. However, since Tree 9 is a large native tree, which is a priority for protection, and a reasonable development concept appears feasible outside of the Prescriptive Path standard, as shown on the applicant's conceptual development plan, the standard root protection zone (RPZ) must be provided. Further, given the location and small size of Tree 16, near the center of Lot 4, and its condition noted by the arborist as "fair with some crown dieback", it may not be practical to retain this tree long-term. Therefore, retaining Tree 16 will be optional and not mandatory.

In order to ensure that future owners of the lots 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 1-4 must be carried out in conformance with the Tree Preservation and Preliminary Grading and Erosion Control Plan (Exhibit C2) and the Arborist Report (Exhibit A4a), *except* the Title 11-Prescriptive Path standard root protection zone must be provided for Tree 9.

The applicant's tree protection plan also shows some trees to be removed and protection measures for other trees, which are nuisance species or otherwise not subject to this criterion. However, all the trees on the site are also subject to the Johnson Creek Basin Plan District tree removal standards (33.537.125), which limit the removal of trees to specific factors, such as nuisance trees, or areas where right-of-way improvements or new buildings are proposed. The trees that are not identified for long-term protection, per this criterion, may only be removed in accordance with the Johnson Creek Basin Plan District tree removal standards.

The tree protection plan also shows fencing will be provided on Lot 3 to protect an off-site tree, a large (38-inch) Grand fir-*Abies grandis* (Tree 5), on the abutting site to the south, which is within 15 feet of potential disturbance area for the right-of-way construction and potential development on Lot 3. Additionally, to protect the off-site tree from construction impacts, the arborist recommends: *Excavation for sidewalk installation around the significant off-site tree (Tree #5) will also be overseen by the qualified arborist and any surface disturbance on-site within 15-ft of this tree will have the arborist present.* As further addressed in Criterion G, below, arborist oversight for this offsite tree and other onsite trees will be required, at the time of demolition and construction.

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

Further, 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.

C. Flood Hazard Area. If any portion of the site is within the flood hazard area, the approval criteria of Chapter 33.631, Sites in Flood Hazard Areas, must be met.

Findings: Portions of this site are within the flood hazard area. The approval criteria in the RF through R2.5 zones state that where possible, all lots must be located outside of the flood hazard area. Where it is not possible to have all lots outside of the flood hazard area, all proposed building areas must be outside of the flood hazard area. In addition, services in the flood hazard area must be located and built to minimize or eliminate flood damage to the services, and the floodway must be entirely within a flood hazard tract.

The proposed land division includes a tract (Tract A) which encompasses the flood hazard area of the site. As shown on Exhibit C2, all lots and services will be located outside of the flood hazard

area. The applicant has noted Tract A will be retained by the owner and applicant, NW McCoy, Inc. Based on the foregoing, this criterion is met.

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

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

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

Clearing and Grading: The site is primarily flat and is not located within the Potential Landslide Hazard Area. The applicant's grading plan (Exhibit C2) shows clearing and grading activities will be limited to the site frontages where new right-of-way facilities will be installed and to the area proposed for the access and utility easement; and a stockpile area has been designated on a portion of Lot 3. Tree protection fencing has been noted for the trees that are required to be protected, per Criterion B, above; however, silt fencing has been noted in several locations beyond the proposed construction limits, including within the proposed flood hazard tract (Tract A), and within several of the proposed root protection zones. Therefore, to avoid impacts to the trees that must be preserved long-term and to ensure construction activities do not occur in Tract A, revisions must be made to the grading plan submitted for permits. The final grading plan must show the work area limits needed to protect the trees designated for preservation and those subject to the Johnson Creek Basin Plan District tree removal standards; it must not include any silt fencing or construction activities beyond one-foot of the construction limits or within the root protection fencing noted on the preliminary grading plan (Exhibit C2), and as modified by the findings in Criterion B, above.

Further, to ensure the tree protection measures are implemented prior to any demolition or construction on the site or within the abutting rights-of-way, the applicant must obtain and finalize a Zoning Permit, prior to final plat approval, that shows the grading work, limits of disturbance and tree protection fencing for onsite and offsite trees, with the changes noted above and with the provisions for arborist oversight, as noted in the findings for Criterion B, above. With these conditions, this criterion will be met.

Land Suitability: As indicated above, the site is relatively flat and contains no known geological hazards. The portions of the site within the flood hazard area will be maintained in a separate tract, which is unbuildable. The site is currently in residential use, and there is no record of any other use in the past. Though the site is connected to public sanitary services presently, Site Development noted that plumbing records indicate the presence of an on-site septic system (cesspool or septic tank) that was abandoned in-place at the time of sewer connection in 1990. To maintain compliance with OAR 340-071-185, the abandoned septic system must be decommissioned (located and filled) to facilitate the land division. In the event the septic is located within a required root protection zone, per the findings in Criterion B, above, a certified arborist must be onsite during the decommissioning activities, and the arborist must provide a post-construction report outlining any impacts to the protected tree(s) and measures to mitigate those impacts to the satisfaction of BDS, and the tree protection plan and acknowledgment must be revised accordingly. With such conditions to document the septic decommissioning, there are no other anticipated land suitability issues, and this criterion will be met.

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

Findings: The following tract is proposed:
- Tract A: Open Space (Flood Hazard)

The narrative indicates the tract is to be retained by the owner and applicant, NW McCoy, Inc.

The following easement is proposed for this land division:

- A Reciprocal Access and Utility Easement is proposed to allow shared use of a driveway and utilities across the relevant portions of Lots 2-6, as shown on Exhibit C.1.

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

Safety: *The site is on the southeast corner of the intersection of SE Holgate Blvd. and SE 128th Ave. SE Holgate Blvd. at this location is improved with an approximately 35-foot wide paved roadway striped for two vehicle travel lanes and two bicycle lanes. Sidewalks exist on the opposite side of SE Holgate Blvd, but no curb or sidewalk exists within the frontage of the subject site. At this location, SE 128th Ave. is improved with a 28-ft paved roadway with no curbs or sidewalks. SE 128th Ave. terminates in a T-intersection with SE Holgate Blvd. Gilbert Heights Elementary school is directly across SE Holgate Blvd. from the subject site. A striped cross walk exists on the southwest corner of the intersection extending across SE Holgate Blvd. SE 128th Ave. is a designated Neighborhood Greenway at this location. Neighborhood greenways are low-traffic and low-speed streets where we give priority to people walking, bicycling, and rolling. Neighborhood greenways form the backbone of the city’s Safe Routes to School network and connect neighborhoods, parks, schools, and business districts.*

SE Holgate Blvd. is part of the High Crash Network. More than half of deadly crashes occur on just 8% of Portland’s streets. These streets make up the High Crash Network. Based on information in the City’s database on Portland Traffic Deaths and Injuries since 2010, there have been no fatal crashes but there have been 5 injury crashes on SE Holgate Blvd. between SE 122nd Ave. and SE 136th Ave. SE 128th Ave. is a local service street which is not part of the High Crash Network. There have been no fatal accidents but 1 injury accident did occur since 2010 between SE Holgate Blvd. and SE Harold St. The injury was to a person walking.

While the ideal crash rate is zero, development in compliance with the base zone can still be allowed if the proposal addresses the safety concerns. In this case, the proposal will add separated sidewalks to both SE 128th Ave. and SE Holgate Blvd. increasing both the safety and

comfort of pedestrians on both facilities. Additionally, the entire subdivision has been designed to minimize vehicular conflicts created by limiting the number and location of vehicular access points. The applicant has proposed no vehicular access on SE Holgate Blvd. Instead, the existing house is proposed to retain the existing driveway onto SE 128th Ave., which is a local service street. All of the other lots will share a single access point onto SE 128th Ave. via a shared driveway with access easement across the newly created lots. In addition to putting all of the vehicular access points onto the safer street, the proposal is limiting the number of locations with turning movements in order to reduce potential conflicts with all modes.

Street capacity: SE Holgate Blvd: The right-of-way has a paved roadway surface with two striped vehicle lanes and two striped bicycle lanes. The street appears to have adequate capacity to absorb the increase in motor vehicle and bicycle trips from the addition of five residential lots. No sidewalk exists in this frontage, constraining capacity for pedestrians.

SE 128th Ave: The right-of-way has a paved roadway surface which accommodates two-way vehicle travel. Due to the local service classification the roadway also serves as a shared bicycle facility. The street appears to have adequate capacity to absorb the increase in motor vehicle and bicycle trips from the addition of five residential lots. The frontage has no sidewalk, which constrains capacity for pedestrians.

The applicant is proposing dedication of right-of-way and public improvements to provide a separated sidewalk corridor and associated storm water management on both frontages. The creation of a separated sidewalk within the frontages of the subject site will alleviate a portion of the need for sidewalk improvements in this area.

Level of service: This is a term used to describe vehicular traffic; it currently has little to no meaning for other modes. PBOT has not identified any level of service concerns with these segments or the subject intersection in the TSP or other planning documents. It is believed the intersection functions within the City's adopted level of service E for stop controlled intersections and has capacity to absorb the anticipated vehicle trips from five additional residential lots.

Connectivity: The subject site is at the intersection of two established rights-of-way. The connectivity standards are met.

Transit Availability: The subject site has good access to transit. Bus transit is available on SE Holgate Blvd. with the closest stop being relocated to be within the frontage of the subject site as part of the public works permit associated with this land division. Tri-Met service route 17 operates 7 days a week with headwinds of generally less than 10 minutes on weekdays. On SE 122nd Ave, Tri-Met service route 73 provides frequent bus service 7-days a week with headwinds of 15-minutes or less most of the day, every day. Both of these lines provide multiple transfer opportunities and can be used to access MAX. Route 73 can also be used to access C-Tran. The site is well served by transit. Pedestrians accessing that transit must walk in the street on SE 128th Ave, which does not meet the City's standard of a separated sidewalk facility. On SE Holgate, pedestrians must walk in the shoulder or cross SE Holgate to walk on a sidewalk on the north side of the street. The applicant's proposed sidewalk improvements will alleviate a portion of the need for pedestrian improvements in the area and will allow the future residents of this land division access to transit which does not require walking in a vehicular travel lane.

Availability of pedestrian and bicycle networks: Separated sidewalk facilities do not exist for the many streets in the subject area. Area collector streets have a mix of sidewalks on both sides (SE 122nd Ave.), sidewalks on only one side (SE Holgate Blvd.) and segments with no sidewalks at all. Many of the existing sidewalks are curb tight or do not meet City standards. The local service streets are a mixture of mostly center strip paving with no sidewalks or gravel streets. The street segments which do have separated sidewalks are not yet through street. No sidewalk currently exists in either frontage of the subject lot. The addition of five residential 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. The applicant's proposed sidewalk improvements will alleviate a portion of the need for pedestrian improvements in the area.

Multiple streets in the area are designated as City Bikeways, all of which are paved. For east/west travel, SE Holgate Blvd. has striped bicycle lanes. For North/South travel through the area, SE 128th Ave. is a designated neighborhood greenway. SE 122nd Ave. also provides striped bicycle lanes, though SE 128th Ave. presents a lower street cycling environment. Neighborhood greenways are low-traffic and low-speed streets where we give priority to people walking, bicycling, and rolling. Neighborhood greenways form the backbone of the city's Safe Routes to School network and connect neighborhoods, parks, schools, and business districts. There is adequate availability of bicycle networks in this area.

On street parking impacts: *On street parking is not available on SE Holgate Blvd. and will not become available as a result of the proposed improvements. However, on street parking is available on both sides of SE 128th Ave. There appears to be little demand for on-street parking on SE 128th Ave. at this time. All of the homes on this segment appear to include driveways and garages that accommodate multiple vehicles. The existing home and garage are proposed to be retained. The applicant's narrative states the proposed new residential lots will each have on-site parking accessed via the single new shared driveway. The shared driveway will allow for the provision of on-site parking while also reducing the overall number of curb cuts that remove parking from the permanent on-street supply to one curb cut total for all 5 new lots. It is anticipated there will be few impacts to on-street parking from the addition of the proposed residential lots.*

Access restrictions: *SE Holgate Blvd. is a part of the City's high crash network. No access is proposed to SE Holgate Blvd. Staff recommends a condition of approval of the land division to ensure that future access to lots 4, 5, and 6 will be via the shared access easement only, not from SE Holgate Blvd.*

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

Impacts on pedestrian, bicycle, and transit circulation: *There is transit service available on SE Holgate Blvd. and SE 122nd Ave. A network of paved streets provides bicycle connections from this neighborhood to the larger City. There is an incomplete network of sidewalks present; where sidewalks do exist many are not built to City standards. The addition of five residential lots to the neighborhood is not anticipated to have a substantial impact on area circulation. However, adding additional trips to area where the pedestrian circulation system is not to City standards will have an incremental negative effect.*

Mitigation: *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 City's standard separated sidewalks along the site's frontage will alleviate a portion of the need for pedestrian system improvements in the area. In order to construct the sidewalks, the applicant must establish a curb line for the first time on both frontages. To manage stormwater from the new improvements the applicant must also provide vegetated stormwater facilities on both frontages. The amount of land needed to provide for all of these improvements while also accounting for driveways on SE 128th Ave. and the existing high tension power lines on SE Holgate Blvd. requires a great deal of coordination between multiple City bureaus and private utilities. A public works alternative review was approved for the SE Holgate Blvd. frontage. (21-093127-PW) The applicant has applied for public works permit TH1194 EP673, which has received concept approval. The plans submitted to the land use file dated 5-18-2022 show a 12-foot dedication on SE Holgate Blvd. and a 2-foot dedication on SE128th Ave. This is consistent with the public works permit plans.*

In addition to sidewalk improvements, access restrictions are needed to promote safer operations of the transportation system at this location. As noted above, no access is proposed on SE Holgate

Blvd, which is a High Crash Network street. Instead, all vehicular access to the five new lots will be via a shared driveway approach from SE 128th Ave. In order to ensure future vehicular access remains off the shared access easement, staff recommends a condition of approval limiting vehicular access for lots 4, 5, and 6.

PBOT has reviewed and concurs with the information supplied and available evidence. To address safety and improvements for the pedestrian environment, PBOT notes this approval criterion can be met with the following conditions:

- *Lots 4, 5, and 6 may not have vehicular access to SE Holgate Blvd. Vehicular access must be taken from SE 128th Ave. via the shared driveway and access easement.*
- *Property dedication necessary to accommodate public improvements shall occur as part of the Final Plat review.*
- *Prior to Final Plat approval, Public Works financial guarantees for the public improvements shall be obtained to the satisfaction of Public Works.*

With the application of these conditions, these criteria will be met.

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

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

33.651 Water Service standard – See Exhibit E.3
<p>The Water Bureau has indicated that water and hydrant services are available to the site, as noted on page 3 of this report. Additionally, the Water Bureau noted: <i>Water service locations will be reviewed through public works permit TH1194. Water service location submitted with future building permits must match service locations approved through TH1194. Meter sizing will be reviewed through the building process.</i></p> <p>The Fire Bureau has reviewed the fire flow and noted no issues with the fire hydrant capacity.</p> <p>Based on these factors, the water service standards of 33.651 have been verified.</p>
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report.</p> <p>BES reviewed the proposed improvement and utility plan and determined the applicant’s proposal for sanitary service, per Public Works Permit #EP673 TH1194, is acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal standard and approval criterion.</p> <p>The sanitary sewer service standards of 33.652 have been verified. This criterion is met.</p>
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1
<p>BES reviewed the applicant’s proposed improvement and utility plan and storm 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:</p> <ul style="list-style-type: none"> • Public Street Improvements: Stormwater from these new impervious areas will be directed into new vegetated storm facilities in SE 128th Avenue and SE Holgate Boulevard, per Public Works Permit #EP673 TH1194. Prior to final plat approval, the applicant must submit approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document to the satisfaction of BES.

- **Lots:** BES has noted that there are inconsistencies in the applicant's stormwater report and utility plan, as follows: *The stormwater management facilities shown on the revised Utility Plan differ from what was provided with the Preliminary Stormwater Report from 3J Consulting (dated January 14, 2022). For example, the revised Utility Plan does not show the shared driveway as pervious pavement, and the stormwater facilities for Lots 4 & 5 are in different locations and configurations as those shown in the Storm Report. Additionally, although it appears the stormwater facilities have been sized to manage the stormwater from the driveways of each lot, it is not clear how stormwater will be conveyed to those facilities or if a different approach (such as filter strips) should be considered for these areas. Because it is clear there is adequate space to manage stormwater for the proposed development on each lot, BES will not require an updated Storm Report or Utility Plan at this time. However, prior to final plat approval, the applicant must submit a revised Utility Plan and/or Stormwater Report that address the inconsistencies with the overall stormwater management plan for the lots and shared driveway.*

Additionally, BES notes additional information must be provided to document the stormwater management system for the existing house: *Prior to final plat approval the applicant must document the location of the stormwater disposal system serving the existing structure to confirm whether it will be located entirely within Lot 1 and meet all required setbacks. If the system will extend beyond the boundaries of Lot 1 or no longer meet setback requirements per the SWMM, then the applicant must modify the stormwater disposal system serving the existing structure on Lot 1 according to BES and SWMM requirements. Obtain finalized permits as necessary prior to final plat approval.*

With the noted conditions, 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 site is situated on a corner of two connected streets, and otherwise, there are limited through streets in the surrounding area. Given the size of the site and the noted spacing patterns, a north-south connection would generally be warranted on the east side of the site. However, due to the flood hazard designation on that portion of the site, and the preference to avoid further impacts and impervious surfaces within the flood hazard area, no connection will be required.

In addition, though the site is within the boundaries of two Master Street Plans, including the *Far Southeast District* and *Division Midway*, neither of these plans show a specific connection at this site.

As such, this criterion is met.

33.654.120.B & C Width and 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.

PBOT reviewed the proposal and provided the following comments: *For all proposals that involve establishing a curb line, PBOT requires concept approval of a Public Works Permit as*

documentation that construction of the improvement to City standards is feasible as required by 33.654.120.C. 1 and 2. Please note a public works alternative review was approved to alter the standard configuration on SE Holgate Blvd. (21-093127-PW) Public Works Permit TH1194 EP673 has received concept approval.

Urban Forestry evaluated the provision of street trees and planting areas for the public right-of-way and determined one street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Prior to the lot division, there is room for 23 street trees and after the proposed lot division there will only be room for 16 street trees. Therefore, a fee is required for the permanent loss of 7 planting spaces (\$450 per inch x 1.5" required size x 7 trees), and payment must be made prior to final plat approval.

Urban Forestry also noted the 10 existing street trees within the SE Holgate Boulevard frontage are approved for removal and must be mitigated through the Public Works Permit or Building Permits. New street trees must be planted at a minimum 1.5 caliper inches.

Based on the foregoing, with the previously noted dedication along both street frontages, the width of the right-of-way will be sufficient to accommodate the expected users; and with conditions to complete the public works permit, the required right-of-way elements and street trees will be accommodated. As such, these criteria will be met.

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

Generally, telephone, cable, natural gas, electric, and telecommunication utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. In this case, the applicant has proposed a reciprocal access and utility easement for Lot 2-6 that connects to the SE 128th Avenue frontage, though no specific utilities have been identified for the easement. With the provision of the noted easement and a related maintenance agreement at the time of final plat, this will provide space for any private utilities that cannot be accommodated within the adjacent rights-of-way. As such, this criterion will be met.

DEVELOPMENT STANDARDS

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

Future Development: Among the various development standards that will be applicable to this lot, the applicant should take note of:

The Johnson Creek Basin Plan District tree removal standards (33.537.125) and other general development standards (33.537.100).

Existing development that will remain after the land division. The existing house on the site will remain and be located on Lot 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R10 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be at least 10 feet from the new property lines. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- **Accessory Structures and Vehicle Areas** – In this zone, accessory structures and vehicle areas are not allowed on a lot without a primary structure and are not allowed to remain on a proposed lot line. For the proposal to meet this standard, all accessory structures and vehicle areas on Lots 2, 3 and 4 and Tract A must be removed. For structures 200 square feet or larger, the applicant must provide documentation prior to final plat approval that the required demolition permits have received final inspection approval. For structures less than 200 square feet, a demolition permit is not required; and the applicant must submit before and after photos to document removal of the structure(s) and vehicle area(s). Alternatively, the applicant may choose to execute a covenant with the City to retain the carport and vehicle area on Lot 3 and/or the accessory shed near the center of Lot 4 for up to two years without a primary structure. The covenant must meet the requirements of 33.700.600 and be executed prior to or with the Final Plat.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

Fire Bureau: The applicant must meet the requirements of the Fire Bureau for aerial fire department access roads. Buildings or portions of buildings exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway. These requirements are based on the 2021 Portland Fire Code, including technical standards of Title 31.

CONCLUSIONS

The applicant has proposed a 6-lot subdivision with a flood hazard tract, as shown on the attached preliminary plan (Exhibit C1). The primary issues identified with this proposal are: protection of the flood hazard area; right-of-way dedications and improvements; tree protection; stormwater management for the existing house; removal of existing accessory buildings; decommissioning the onsite septic system; and limits on vehicular access. As discussed in this report, the relevant standards and approval criteria have been met or can be met with conditions. Accordingly, this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 6-lot subdivision, that will result in six standard lots and one flood hazard tract, as illustrated with Exhibits A4a-b and C1-C5, subject to the following conditions:

A. Supplemental Plan. An additional supplemental plan shall be submitted with the final plat survey for review and approval by Land Use and BES. 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, accessory structures, driveways, off-street vehicle parking areas, and stormwater management facilities on the site at the time of the final plat application;
- 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 Holgate Boulevard and SE 128th Avenue. The required right-of-way dedication must be shown on the final plat.
2. A Reciprocal Access and Utility Easement shall be shown and labeled on the final plat, across the relevant portions of Lots 2-6, as shown on Exhibit C1. The easement shall allow shared use for all of the purposes that a driveway would be typically used and shall allow for utilities.
3. The flood hazard tract shall be noted on the plat as "Tract A: Open Space (Flood Hazard). A note must also be provided on the plat indicating the ownership and maintenance responsibilities for the tract.
4. 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.6-C.8, 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:

Streets

1. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontage. The applicant shall submit an application for a Public Works Permit and provide plans, financial assurances, pay all outstanding fees, and provide a signed permit document to the satisfaction of the Portland Bureau of Transportation, the Bureau of Environmental Services, and Urban Forestry for required street frontage improvements, including stormwater management facilities and street trees. Prior to ground disturbing activity related to the public works permit, the applicant

must obtain an approved tree protection inspection for the BDS Permit required by Condition C.2.

2. The applicant shall obtain a BDS Permit (Site Development or Zoning Permit) to install tree protection and document the limits of disturbance for grading associated with the public works improvements. The clearing and grading plan submitted with the permit must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C2) and include:
 - Tree Protection consistent with Condition D.1
 - Construction limits of disturbance
 - The temporary staging and stockpile areas.
 - A note that topsoil must be stockpiled on site and re-used to the extent practicable.
 - A note that a tree protection inspection must be approved prior to the start of ground disturbing activity.

Existing Development

3. All accessory structures and vehicle areas on Lots 2, 3 and 4 and Tract A must be removed. For structures 200 square feet or larger, the applicant shall provide documentation prior to final plat approval that the required demolition permits have received final inspection approval. For structures less than 200 square feet, a demolition permit is not required; and the applicant shall submit before and after photos to document removal of the structure(s) and vehicle area(s). Alternatively, the applicant may choose to execute a covenant with the City to retain the carport and vehicle area on Lot 3 and/or the accessory shed near the center of Lot 4 for up to two years without a primary structure. The covenant must meet the requirements of 33.700.600 and must be recorded with Multnomah County prior to final plat approval. Tree protection and arborist oversight must be provided for any tree within 15 feet of the structure or vehicle area to be removed, in accordance with Condition D.1.
4. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site. Tree protection measures must be provided as outlined in Condition D.1, prior to any ground disturbances or alterations for the septic decommissioning. In the event the septic system is located within a required root protection zone, per Condition D.1, a certified arborist must be onsite during the decommissioning activities, and the arborist must provide a post-construction report outlining any impacts to the protected tree(s) and measures to mitigate those impacts to the satisfaction of BDS, and the tree protection plan and the acknowledgment required per Conditions C.8 and D.1 must be revised accordingly.
5. The applicant shall document the location of the stormwater disposal system for the existing house to the satisfaction of the Bureau of Environmental Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If the stormwater system for the existing home will extend beyond the boundaries of Lot 1 (the lot with the existing house), then the applicant must modify the system according to BES and SWMM requirements. Permits must be obtained and finalized as necessary for the work.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Reciprocal Access and Utility Easement described in Condition B.2, above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, 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.

7. A Maintenance Agreement shall be executed for the flood hazard tract (Tract A) described in Condition B.3, above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, 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.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lots 1-4. 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.

Other requirements

9. 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 seven 1.5-inch 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. Demolition and development on Lots 1-4 shall be in conformance with the Tree Preservation Plan (Exhibit C2) and the applicant's arborist report (Exhibit A4a), *except* the Title 11-Prescriptive Path standard root protection zone must be provided for Tree 9. Specifically, Trees 9, 10, 15, 27 and 28 are required to be *preserved and protected*, and off-site Tree 5 is required to be *protected* with the root protection zones indicated on Exhibit C2, except as noted above; and arborist oversight is required during any construction within 15 feet of the noted trees, as outlined in the arborist report (Exhibit A4a). 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. Vehicle access to Lots 4-6 shall not be allowed from SE Holgate Boulevard.
3. The applicant must meet the Fire Bureau requirements for 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.

Decision rendered by:  on June 29, 2022
By authority of the Director of the Bureau of Development Services

Decision mailed July 5, 2022

Staff Planner: Kate Green

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 November 24, 2021, and was determined to be complete on February 1, 2022.

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 November 24, 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 by 129 days (Exhibit A7). Unless further extended by the applicant, **the 120 days will expire on October 8, 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 July 19, 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. Initial Submittal
 - a. Project Narrative
 - b. Project Plans
 - c. Technical Reports
 - d. Supplemental Documents
 - 2. Revised Submittal, January 20, 2022
 - a. Response to completeness review letter
 - b. Revised Project Plans
 - c. Revised Storm Report
 - d. Revised Arborist Report
 - e. Deeds
 - f. NW McCoy Inc, Articles of Incorporation
 - g. Frontage Improvement Planting Plan
 - 3. Revised Submittal, February 1, 2022
 - a. Turning Movement Diagrams
 - b. Revised Project Plans
 - 4. Revised Submittal, February 11, 2022
 - a. Revised Arborist Report
 - b. Revised Tree Calculations
 - c. Revised Project Plans
 - 5. Revised Stamped Survey
 - 6. Revised Submittal, April 13, 2022
 - a. Turning Movement Diagrams
 - b. Revised Project Plans
 - 7. Timeline Extensions
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat-Sheet CO40 (attached)
 - 2. Tree Preservation and Preliminary Grading and Erosion Control Plan-Sheet C230 (attached)
 - 3. Existing Conditions and Demolition Plan-Sheet C100
 - 4. Utility Plan-Sheet C300
 - 5. Frontage Improvements Planting Plan and Details-Sheets L101 and L102
 - 6. Full Plan Set
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - a. Bureau of Environmental Service Addendum
 - 2. Bureau of Transportation Engineering and Development Review
 - a. Bureau of Transportation Engineering and Development Review Addendum
 - 3. Water Bureau

4. Fire Bureau
 5. Site Development/BDS
 - a. Site Development/BDS Addendum
 6. Urban Forestry/Parks
 7. Life Safety/BDS
- F. Correspondence: (none received)
- G. Other:
1. Original LU Application
 2. Revised LU Application
 3. Letter to applicant re: incomplete application

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).