



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

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Date: July 6, 2022
To: Interested Person
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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 21-095304 LDP

GENERAL INFORMATION

Representative: Danelle Isenhardt, Emerio Design
6445 SW Fallbrook Pl #100, Beaverton OR 97008
danelle@emeriodesign.com 503-880-4979

Owners/Applicants: Bernadette Doolan and Paul Flood
644 S Palatine Hill Rd, Portland, OR 97219-8191

Site Address: 644 S Palatine Hill Rd

Legal Description: TL 1400 0.62 ACRES, SECTION 27 1S 1E
Tax Account No.: R991270400
State ID No.: 1S1E27CD 01400
Quarter Section: 4029

Neighborhood: Collins View, contact at contact@collinsviewna.org
Business District: None
District Coalition: Office of Community & Civic Life, contact Leah Fisher at leah.fisher@portlandoregon.gov

Zoning: Residential 10,000 (R10)
Case Type: Land Division- Partition (LDP)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide this 26,769 square foot subject site into two parcels. Parcel 1 will be 14,288 square feet in size and Parcel 2 will be 12,481 square feet in size. Parcel 1 is proposed to be a standard lot and contain the existing house to remain. Parcel 2 is proposed to be a flag lot and will be available for future development. Several non-exempt on-site trees are proposed for preservation. A modification to reduce the interior setback for the proposed flaglot is proposed to better protect on-site trees. Proposed right-of-way improvements will be limited to widening the existing bike lane to six feet.

In order to show feasibility of providing services and other criteria, the applicant has provided a conceptual development plan showing single dwelling houses on Parcels 1 and 2 with on-site parking accessed via an existing driveway on SW Palatine Road. Please note that the proposed lots qualify for additional density under the Residential Infill Options of 33.110.265. On-site parking is not required (33.266.110).

This partition 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 partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land (2 parcels). Therefore, this land division is considered a partition.

RELEVANT APPROVAL CRITERIA: IN ORDER TO BE APPROVED, THIS PROPOSAL MUST COMPLY WITH THE APPROVAL CRITERIA OF *TITLE 33*. THE RELEVANT CRITERIA ARE FOUND IN **SECTION 33.660.120, APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES.**

FACTS

Site and Vicinity: The subject site located in the Collins View neighborhood of S Portland. There is an existing house proposed to remain on the site. The site is vegetated with several large trees. The site slopes up from SW Palatine Hill Road toward the rear property line at the west.

The surrounding area consists primarily of single dwelling structures on larger lots. The existing street grid provides reasonable connectivity to and from the site along S Palatine Hill Road.

Infrastructure:

- **Streets** – The site has approximately 115 feet of frontage on S Palatine Hill Road. There is one driveway entering the site that serves the existing house on the site. At this location, S Palatine Hill Road is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, Secondary Emergency Response Street, and Community Corridor in the Transportation System Plan (TSP). Tri-Met provides transit service adjacent to the site on S Palatine Hill Road via Bus 39.

S Palatine Hill Road has a 29-foot paved roadway within a 50-foot right-of-way lacking a curb and a pedestrian corridor. There is a 5-foot bike lane in front of the site.

- **Water Service** – There is an existing 16-inch CI water main in S Palatine Hill Rd. The existing house is served by a metered service from this main.
- **Fire Hydrants** The nearest fire hydrant is located on S Palatine Hill Road with a hydrant flow of 2,100 gpm with a minimum pressure of 20 psi. A second fire hydrant is located 220 feet to the north of the site on S Palatine Hill Road with a hydrant flow of 2,200 gpm with a minimum pressure of 20 psi. The combined flow is 4,400 gpm.
- **Sanitary Service** - There is an existing 8-inch CSP public sanitary sewer line in S. Palatine Hill Road.
- **Stormwater Disposal** – There is a public 15-inch RCP storm-only sewer in S. Palatine Hill Road.

Zoning: Residential 10,000 (R10): The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood. Generally, lots in R10 will have a density approximately of 1 lot for every 10,000 square feet of site area.

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 **April 27, 2022**. Two written responses have been received from notified property owners in response to the proposal. The following summarized comments were submitted and are followed by the staff response in *italics*:

- Concern about and opposition to the removal of Trees #11 and #13.
In response to neighborhood concern, the applicant has revised their site plans and tree preservation to preserve trees #11 and #13. Tree preservation is addressed in detail in Section B of this decision.

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	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 RF through R5 zones. Based on the applicant's survey, the site area is 26,769 square feet. The maximum density in the R10 zone is one unit per 10,000 square feet. Because the site is within the potential landslide hazard area there is no minimum density. The site has a maximum density of 2 units. The applicant is proposing 2 single dwelling parcels. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R10 Zone	6,000	17,000	50	60	30	40	40
Parcel 1	14,288		84.19	164.90	89.11	-	-
Parcel 2	12,481		-	-	-	108.06	75.03

* 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.

** For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots

Flag lots are allowed in limited circumstances, when specific provisions are met (33.610.400). These requirements have been met, based on the following: the existing development has been on the site for 5+ years and is in a location that precludes a land division meeting the minimum lot width standard or the site has dimensions that precludes a land division meeting the minimum lot width standard; no more than two parcels are proposed and only one is a flag lot; a minimum 12-foot wide pole connects the flag lot to the street; and the flag lot meets the lot area and width and depth (as noted in the table above).

Additionally, vehicle access will be shared between Parcels 1 and 2, via a reciprocal access easement that will be placed over the existing driveway serving Parcel 1. The driveway will branch off into the western pole portion of Parcel 2 in order to allow the preservation of several trees within the eastern portion of the pole.

Based on these factors, Parcel 2 has met the thresholds for when a flag lot is allowed.

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

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees.

Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.3 that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.5) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, eight trees, which provide a total of 267 inches of tree diameter are subject to the preservation requirements of this chapter.

The trees proposed for preservation are in good condition, include native/non-nuisance species, and eight of the trees are 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R10 zone and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain all of the trees that are 20 or more inches and 259 inches of the total tree diameter, so the proposal complies with:

Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site.

In addition, the applicant's arborist report has also identified two trees on adjacent sites that are within 15 feet of potential disturbance area on the proposed lots. In order to protect the off-site trees from construction impacts, the arborist recommends root protection zones which encompass on-site trees, which is reflected on the tree preservation plan.

In order to improve the tree preservation proposal, the applicant has requested modifications to reduce the flag lot setback (33.110.240.F.1) along the east property line to allow the future residential development to be located further from trees 10-13 to be preserved on the site. The tree preservation regulations allow for modifications to development standard if it results in improved tree preservation and on balance remains consistent with the purpose of the regulation being modified (33.630.400).

The development standards for flag lots include specific setback requirements to protect the privacy of abutting residences (33.110.240.F) and are a subset of the Alternative Development Options (33.110.240.A). The purpose of the Alternative Development Options is to allow for variety in development standards while maintaining the overall character of a single-dwelling neighborhood. These options have several public benefits:

- They allow for development that is sensitive to the environment, especially in hilly areas and areas with water features and natural drainageways;
- They allow for the preservation of open and natural areas;
- They promote better site layout and opportunities for private recreational areas;
- They promote opportunities for affordable housing;
- They promote energy-efficient development;
- They allow for the provision of alternative structure types where density standards are met; and

- They reduce the impact that new development may have on surrounding residential development.

The flag lot setbacks create privacy between the flag lot and abutting residences. Instead of a 15-foot setback, the applicant is proposing a reduced setback of 10 feet from the internal east property line of the flag lot. The reduced setback would still provide 22 feet of separation between the existing residence on Parcel 1 and the proposed building footprint on Parcel 2.

The requested modification is sensitive to the environment by preserving the native trees, which will continue to provide visual screening, reduce energy demand by providing shade and assisting in sustaining the tree canopy within this neighborhood. This modification will allow for a reasonable development on the rear of this property while preserving a several native Douglas Fir trees and allowing less disturbance to Douglas Firs on the neighboring lot to the west. The requested modification will result in improved tree protection of four trees at the rear of the flag lot and, on balance, continues to meet the purpose of the standards being modified. Privacy and separation will continue to be maintained between the developments on Parcels 1 and 2.

With this modification to the flag lot standards, the tree preservation plan can be approved.

In order to ensure that future owners of the parcels of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Report (Exhibit A.5).

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

At the time of development, the individual lots must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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 these criteria, the applicant has submitted a Landslide Hazard Study of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.6).

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated the Landslide Hazard Study and concurred with the recommendations. The report indicates that the site is suitable for development and the proposal reasonably limit the risk of landslide potential on the site and other properties in the vicinity given the soil composition, topography, and other risk factors.

Based on these factors, 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.

In this case, the site is steeply sloped and 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.

A Preliminary Clearing and Grading Plan (Exhibit C.5) and a Landslide Hazard Report (Exhibit A.6) were submitted describing how clearing and grading should occur on the site to minimize erosion risks. The applicant also provided a Tree Protection Plan (Exhibit C.1) that 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 (Exhibit A.5) that further discusses 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. It is anticipated that the grading will primarily involve excavating for the foundations of the new house and trenching for the utilities, but will not include mass grading of the site to alter the existing contours. Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns by maintaining slope stability during temporary construction and in the long-term. Stormwater runoff from the lots will be appropriately managed using underground infiltration chambers to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). In addition, no clearing and grading will be permitted within the root protection zones of the trees on the site that are required to be preserved and an arborist will be present on site during monitor excavation near the root protection zones. Preserving these trees will help limit erosion by assuring that the tree roots will help to hold the soil in place. Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns as recommended by the geotechnical engineer.

As shown above the clearing and grading anticipated to occur on the site can meet the approval criteria. At the time of building permit submittal on the individual lots a clearing, grading and erosion control plan will be submitted to the Site Development Section of the Bureau of Development Services. Site Development will review the grading plan against the applicant's Landslide Hazard Study as well as any additional geotechnical information required at the time of permit submittal to assure that the grading will not create any erosion risks. In addition, the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report. This criteria is met.

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

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

The following easements are proposed and/or required for this land division:

- A Private Access Easement is required over the driveway portion of Parcel 1 to provide a shared access serving Parcels 1 and 2.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easement 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 the 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):

The applicant provided a written narrative addressing the transportation approval criteria above. The application proposes to divide the existing 26,769 square foot lot into two parcels, which will share the existing access for both parcels. Each parcel will provide an on-site parking space for a minimum of one vehicle. The applicant has demonstrated in the record that both parking spaces will be able to enter and exit the site on a forward motion. In lieu of constructing frontage improvements abutting the site, the applicant was approved a Public Works Alternative to retain the curbsless condition but widen the bike lane and add an additional foot of pavement. The applicant has already initiated a Public Works permit for required frontage improvements, which has received 30% concept approval at time of this response. Therefore, given the proposal will not have a dramatic outward appearance of the proposed land division, and the proposal improves the current conditions, PBOT finds that neighborhood livability will not be adversely affected.

Based upon trip generation estimates from the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition, the proposed new parcel is projected to generate one additional morning and one evening trip, for approximately ten daily trips. The net addition of another single-family residences added to the transportation system resulting from the development will not adversely impact the operations of area intersections, as the proposed development adds negligible trips to the transportation network compared to existing volumes in the area and is consistent with the zoning of the property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area and capable of maintaining acceptable levels of service.

Two bus lines run in the vicinity of the site. Route 39 runs along S Palatine Hill Road in front of the site and through the Lewis and Clark campus east of the site, and Route 38 runs along SW Terwilliger Blvd. and SW Boones Ferry Road to the west and northwest of the site. Therefore, regular and reliable transit service is available in close proximity to the site. There is an existing sidewalk along the east side of S Palatine Hill Road across the street. A bike lane exists along the site's frontage of S Palatine Hill Road and will be widened to 6' in width (per the PW Alternative Review decision). Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes and will maintain the established low-volume pedestrian environment.

PBOT has reviewed and concurs with the information supplied and available evidence. Improvements to widen the bike lane to 6-feet with a 1-foot edge will be required to serve the proposed development (see criterion L. 33.654). These criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 and Exhibit E.4</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>The Fire Bureau has reviewed the fire flow and determined the nearest fire hydrant has adequate capacity.</p> <p>The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>BES reviewed the proposed improvement and utility plan and the response is summarized below:</p> <p><i>Service Availability:</i> Sanitary connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to a City sanitary or combined sewer. All discharge must be connected via a route of service approved by the BES Chief Engineer.</p> <p>a. Existing Development: According to historic plumbing permits and other City records, the existing home on proposed Parcel 1 is connected to the sewer in S Palatine Hill Rd with a lateral located approximately 160 feet south of the manhole (ID ADH421) in S Palatine Hill Rd.</p> <p>b. Proposed Development: Proposed Parcel 2 will be served by a new connection to the sanitary-only sewer to be extended to be within the site's frontage in S Palatine Hill Rd.</p> <p>c. Public Works Permit: Currently, there is no sanitary sewer within the frontage of proposed Parcel 2; therefore, the applicant proposes to extend a public sewer to provide an individual connection location. Under Public Works Permit (PWP) BES Job #EP671, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension on 12/15/2021; therefore, BES finds that sanitary sewer can be made available to Parcel 2 as shown. Prior to final plat approval, BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document.</p> <p>There is no public sanitary sewer available in S. Palatine Hill Road to serve Parcel 2. The nearest available sewer is located in S. Palatine Hill Road, 115 feet from the site. The applicant must obtain a public works permit to extend the public sewer to this site prior to final plat approval. With this condition, the sanitary sewer service standards of 33.652 have been verified.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1</p> <p>BES reviewed the applicant's proposed improvement and utility plan and Simplified Approach Form 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> <p>No stormwater tract is proposed or required.</p> <p>The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> • Public Street Improvements: Based on the scope of PBOT requirements, no public stormwater management facilities are required. Per Public Works Permit (PWP) PBOT Job #TH1224, the redeveloped area in the right-of-way is less than 500 square feet of

impervious area and does not trigger BES requirements for stormwater management. BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the right-of-way improvements on 4/06/2022.

- **Parcel 2:** Stormwater from this parcel will be directed to an onsite infiltration trench chamber that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the infiltration trench chamber.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that discharge into soakage trenches that meet setbacks to the proposed new property line.

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

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart.

The block on which the subject property is located does not meet the noted spacing requirements. The site contains sufficient width to allow the creation of a public east-west pedestrian connection. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

In addition, the site is not within an area that has an adopted Master Street Plan, so criterion d. does not apply.

For the reasons described above, this criterion is met.

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

33.644.120.H Street Trees – See Exhibit E.6

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

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

S Palatine Hill Road is improved with a 29-foot paved roadway within a 50-foot-wide right-of-way lacking a curb and a pedestrian corridor. There are no curbs, planter strips, or sidewalks. 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, Standard frontage improvements abutting the site requires a minimum 6-ft wide bike lane with a 1-ft buffer, curb located 1-ft from the inside stripe of the bike lane, 8-ft public stormwater facility, 6-ft sidewalk, and a 1.5-ft frontage zone. Based on City GIS, it appears that an approximate 10-ft dedication will be needed.

However, the applicant applied for a Public Works Alternative (21-077119 PW) to waive City standard frontage improvements and instead widen the existing bike lane to 6-feet with a 1-foot edge. Given the existing conditions of the site, the committee found this to be a reasonable solution and approved the applicant's request.

The applicant has initiated a Public Works Permit (22-124076 WT | TH1224) for the required frontage improvements, which has received 30% concept approval. The performance guarantee (bond) will be required prior to Final Plat approval.

Urban Forestry evaluated the provision of street trees and planting areas for the public right-of-way and determined:

Land Division proposals are required to have preliminary approval from the City Forester, in consultation with the City Engineer, for the retention of existing street trees and providing adequate areas for future street tree planting on existing and proposed public streets (33.654.120.H).

1. Existing Street Conditions

According to available GIS data, the frontages have the following configuration.

a. S Palatine Rd: The site has approximately 115 feet of street frontage. The right-of-way is unimproved with just a paved road. There are no street trees.

2. Street Tree Planting (11.50.060.C)

The applicant has not provided a street tree planting plan. One street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum 2.5 caliper inches. Due to the existing condition of the right-of-way, street tree planting may not be required unless PBOT requires frontage improvements. If PBOT requires frontage improvements street trees may be required during the permit review process.

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

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

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

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:

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the 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 is one Zoning Code standard 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 10.11 feet from the new side property line and 12.04 feet from the new rear property line. 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.

Title 11 Tree Density Standard – This site has a minimum tree density requirement per 11.50.050 that is currently met on the site. Due to the land division, and associated tree removal, Parcel 1 with existing house will no longer meet this standard. Parcel 1 is 14,288 square feet; therefore 5,715 square feet of tree density is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; posting of "No Parking" signs in the flag pole driveway; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2; fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plans (Exhibit C.1-C.7). 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: flag lot standards, tree preservation, modifications to site-related development standards for tree preservation, and frontage improvements.

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

ADMINISTRATIVE DECISION

Approval of a Modification to reduce the building setback from the east property line of Parcel 2 from 15 feet to 10 feet in order to better meet tree preservation requirements; and

Approval of a Preliminary Plan for a 2-parcel partition, that will result in one standard lot and one flag lot, as illustrated with Exhibits C.1-C.7, subject to the following conditions:

- A. Supplemental Plan.** An additional supplemental plan shall be submitted with the final plat survey for Land Use review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the following:
- The surveyed location of any buildings or accessory structures on the site at the time of the final plat application;
 - The surveyed location of any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A Private Access Easement over the shared driveway portion of Parcel 1 for the benefit of Parcel 2 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. 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.5-C.7 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 and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Utilities

2. The applicant is required to construct a sanitary sewer to provide service to the proposed development. Prior to final plat approval, the applicant must, through a Public Works Permit, submit approved engineered plans, provide a financial guarantee, pay all the outstanding fees, and provide a signed permit document to the satisfaction of BES.
3. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 2, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new

house on Parcel 2, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

4. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

Existing Development

5. The applicant must meet the tree density standard of 11.50.050 on Parcel 1 with the existing house by either planting trees on the lot or making the equivalent payment into the City Tree Preservation and Planting Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Private Access 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. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
8. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.5). Specifically, trees numbered 2, 3, 5-7, 11, 13, 14, and 15 are required to be preserved, with the root protection zones indicated on Exhibit C.1. 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. Tree preservation must comply with the specific recommendations of the arborist report, including: driveway construction, utility installation, and tree protection fencing must comply with the recommendations of the arborist report for preservation of trees 2, 3, 5, 6, and 7. Construction and preservation for trees 10, 11, 12, 13, and 15 must comply with encroachment limitations of the truncated root protection zones outlined in the arborist report. The arborist must be onsite to monitor excavation near root protection zones as specified in the arborist report.
2. Development on Parcel 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.5) for the preservation of off-site trees 10, 12, and 17. 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 specified root protection zones is permitted only under arborist supervision.

3. The applicant must post the flag pole driveway for Parcel 2 with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.
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 Parcel 2 to the satisfaction of the Fire Bureau.
6. Vehicle access to Parcel 2 must be from the existing driveway of Parcel 1. A driveway is not allowed along the frontage of Parcel 2.

Staff Planner: Leah Dawkins

Decision rendered by:  **on July 1, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed July 6, 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 October 12, 2021, and was determined to be complete on April 8, 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 October 12, 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 30 days, as stated with Exhibit A.8. Unless further extended by the applicant, **the 120 days will expire on: September 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 July 20, 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.

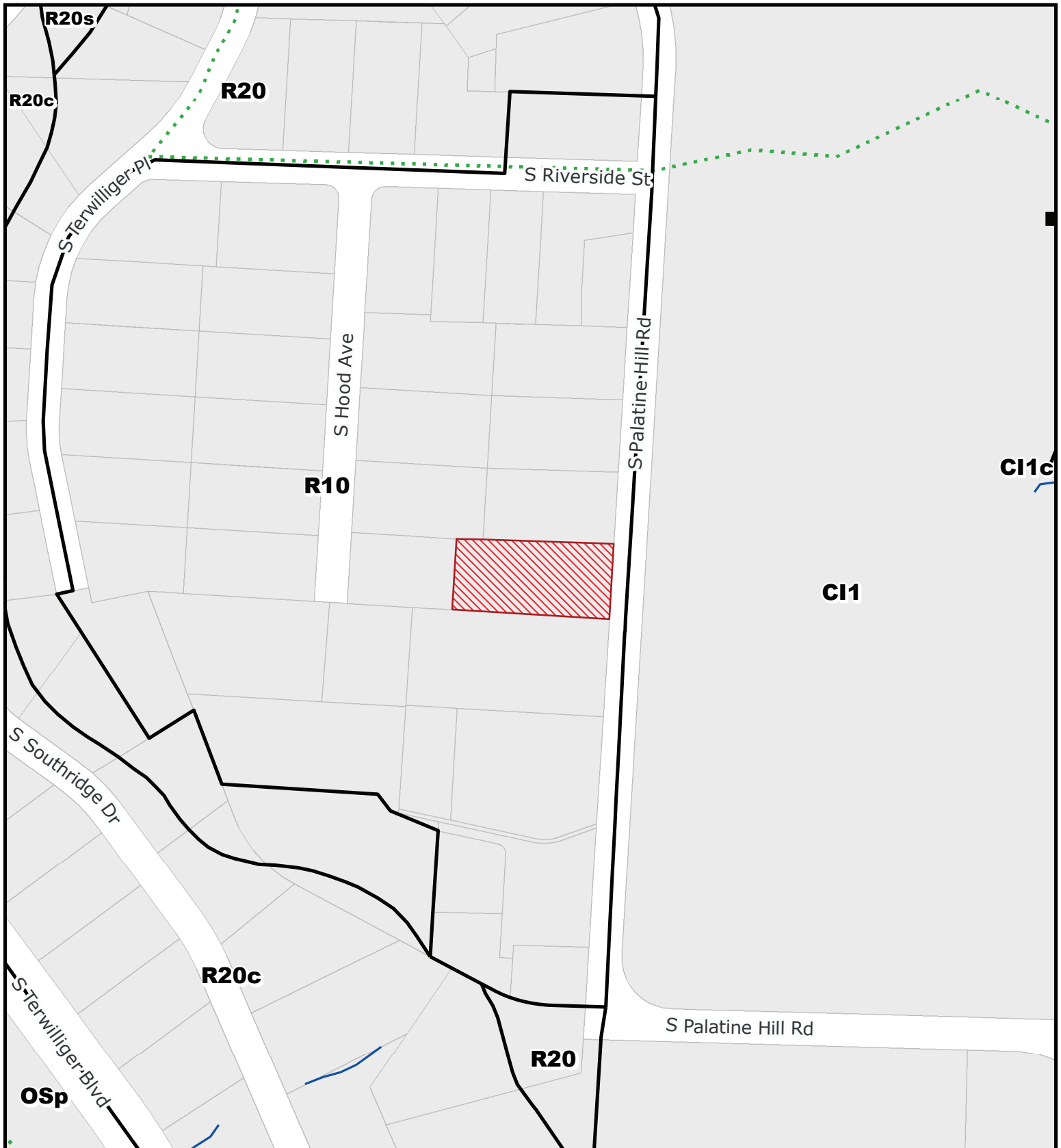
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity 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. October 12, 2021 Narrative, Plans, and Reports
 - 2. February 24, 2022 Additional Information
 - 3. April 13, 2022 Additional Information
 - 4. Final Narrative (05/31/22)
 - 5. Final Revised Arborist Report (05/31/22)
 - 6. Geotech Report and Landslide Hazard Study
 - 7. Stormwater Report
 - 8. 120-day waiver
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site and Tree Preservation Plan (attached)
 - 2. Cover Sheet
 - 3. Existing Conditions
 - 4. Preliminary Plat
 - 5. Site, Utility, and Tree Preservation Plan
 - 6. Preliminary Grading and Erosion Control Plan
 - 7. Turning Radius Study
- 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 Bureau of Development Services
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety of Bureau of Development Services
- F. Correspondence:
 - 1. Michael Bragg, 05/24/2022
 - 2. Daniel Berman, 05/25/2022
- G. Other:
 - 1. Original LU Application and Expedited Land Division Acknowledgement
 - 2. Incomplete Letter
 - 3. PBOT Pedestrian Connection Email

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



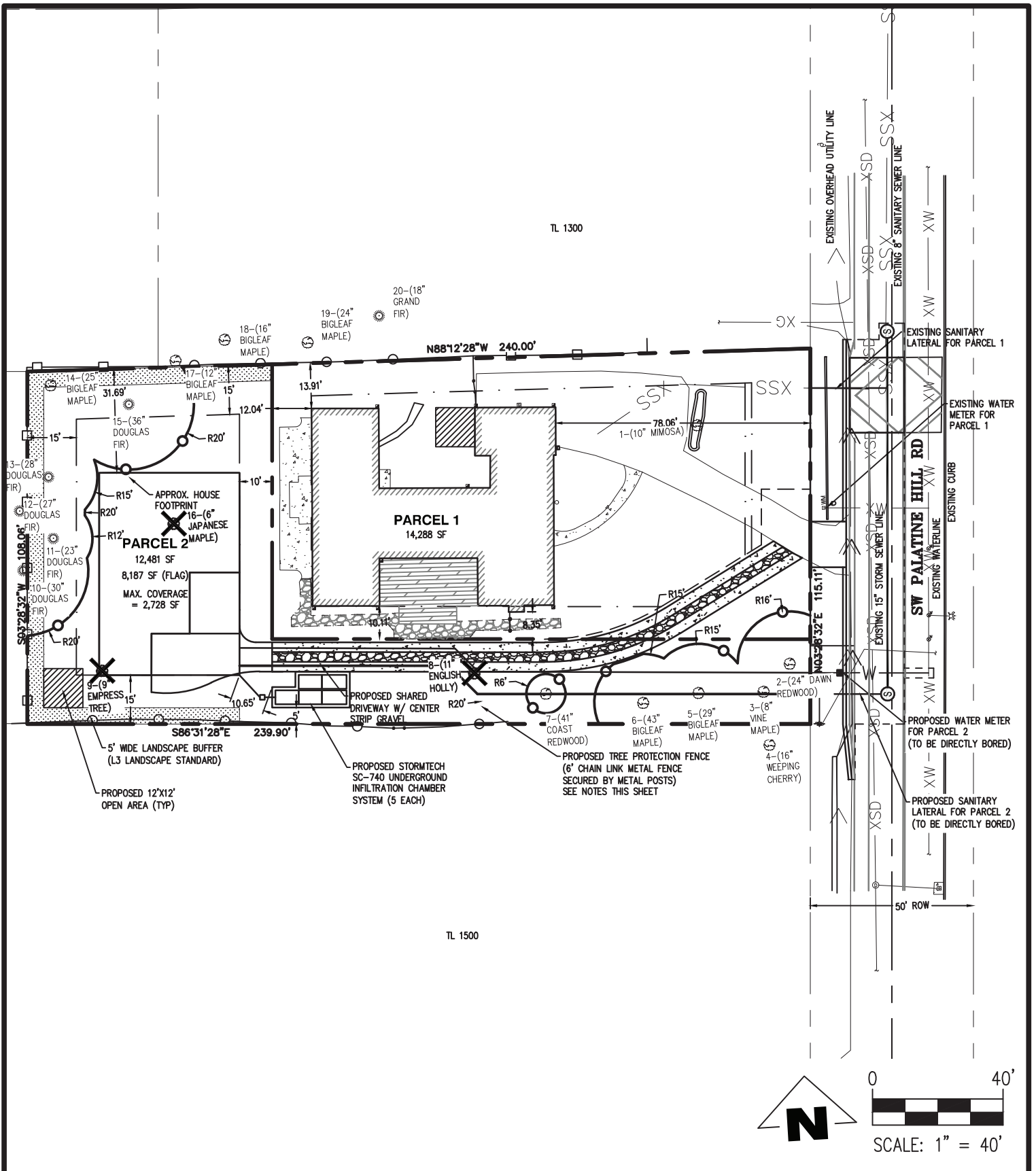
ZONING



For Zoning Code in effect Post August 1, 2021

-  Site
-  Stream
-  Historic Landmark
-  Recreational Trails

File No.	<u>LU 21 - 095304 LDP</u>
1/4 Section	<u>4029</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S1E27CD 1400</u>
Exhibit	<u>B Oct 12, 2021</u>



PROJECT NO. 0916-001
 ORIG. DATE: 05/26/2022
 DRAWN BY: KMH
 SHEET No. 1 of 1

SITE & TREE PRESERVATION PLAN

644 S PALATINE HILL ROAD

PORTLAND, OREGON

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