



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

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Date: October 31, 2022
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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 22-135384 LDS

GENERAL INFORMATION

Applicant: Sarah Radelet, Strata Land Use Planning
PO Box 90833, Portland OR 97290
(503) 320-0273 / sarah@stratalanduse.com

Owner: William Van Oostrum
7256 SW Nevada Ter, Portland, OR 97219

Site Address: 4806 SE 115th Ave

Legal Description: BLOCK 1 LOT 9, GUISSNESS BERRY FARMS
Tax Account No.: R348100550
State ID No.: 1S2E15AB 01600
Quarter Section: 3542

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

Plan District: Johnson Creek Basin
Zoning: R5-Single-Dwelling Residential 5,000
Case Type: LDS- Land Division Subdivision
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer

Proposal:

The applicant is proposing to divide this 40,759 square foot site into seven lots and a private tract. Proposed lots will range in size from 3,244 to 8,496 square feet. Lots 1 and 2 will front on SE 115th Avenue. Lots 3-6 will front along a new public multi-use path along the southern property line of the site. Lot 7 will front on a public extension of SE 116th Avenue. Public infrastructure improvements will include an extension of SE 116th Avenue, installation of a sidewalk corridor along the site frontage of SE 115th Avenue, and a public 15-foot wide east-west pedestrian connection between SE 115th and SE 116th Avenues. An existing home will be retained on Lot 1. The applicant is proposing to preserve a tree grove within Lot 7 and the private tract.

In order to show feasibility of providing services and other criteria, the applicant has provided a conceptual development plan showing single dwelling houses on Lots 1-7 with on-site parking. Parking for Lots 3-6 will be accessed via a 15-wide shared private driveway access. Please note that development on these lots may be eligible for additional density under the Residential Infill Options of 33.110.265 based on the regulations in effect at the time of permit. On-site parking is not required (33.266.110).

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 8 units of land (7 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:

- Section 660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones

FACTS

Site and Vicinity: The subject site is 40,759 square feet in size. The site contains an existing single-dwelling home with a detached garage. The existing home is proposed to be retained and the garage is proposed to be removed. The site is relatively flat and has several large native fir trees as well as a number of other trees along with shrubby vegetation.

The surrounding area consists primarily of single dwelling homes on individual lots. Raymond Park is immediately to the south of the site and shares a property line with the site. The existing street grid is incomplete, with gaps in east-west connectivity around the subject site.

Infrastructure:

- **Streets** – The site has approximately 106 feet of frontage on SE 115th Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 115th Avenue is classified as a Local Service Street for all modes, a City Bikeway, and a Neighborhood Walkway in the Transportation System Plan (TSP). SE 116th Avenue dead-ends from the north at the east end of the site. SE 116th is a Local Service Street for all modes. Tri-Met provides transit service approximately 782 feet from the site at SE Holgate Blvd via Bus 17.

SE 115th Avenue has a 30-foot paved surface within a 50-foot right-of-way lacking a curb and pedestrian corridor. Along the 106-foot-wide site frontage there is no pedestrian corridor. SE 116th has a 20-foot paved surface within an approximately 41-foot right-of-way with a 5.5-foot-wide sidewalk and 4.5-foot-wide planter.

- **Water Service** – There is an existing 8-inch DI water main in SE 115th Avenue. The existing house is served by a 3/4-inch metered service from this main.
- **Fire Hydrants** The nearest fire hydrant is located 113 feet away at the intersection of SE Long Street and SE 115th Avenue with a hydrant flow of 1,900 gpm with a minimum pressure of 20 psi. A second fire hydrant is located 100 feet away on SE 116th Avenue with a hydrant flow of 1,200 gpm with a minimum pressure of 20 psi. The combined flow is 3,100 gpm.

- **Sanitary Service** - There is an existing 8-inch PVC public sanitary sewer line in SE 115th Avenue. There is an existing 8-inch HDPE public sanitary sewer line in SE 116th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The **R5 zone** is a single-dwelling zone intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing and provides options for infill housing that are compatible with the scale of the single-dwelling neighborhood.

The **Johnson Creek Basin Plan District** provides 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. At certain locations, the density of development is limited by applying special regulations to new land division proposals. In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions.

This plan district is intended to be used in conjunction with environmental zoning placed on significant resources and functional values in the Johnson Creek basin, to protect resources and functional values in conformance with Goal 8 of the Comprehensive Plan and Statewide Planning Goal 5. In this case, the applicable standards prohibit plantings on the Nuisance Plant List and require erosion control for any vegetation removal activities.

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 **August 22, 2022**. One written response was received from a notified property owner. The respondent requested that a fence be installed along the south side of the proposed multi-use pathway. The pedestrian path will be within a public right-of-way and must comply with the design requirements of the City Engineer. Fencing is generally not included but the applicant is aware of the request.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.

F	33.634 - Recreation Area	The proposed density is less than 40 units.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site add if site has e-zoning outside of environmental zones.
	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.D - Common Greens	No common greens 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.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 40,759 square feet. A new street is proposed, therefore the maximum density is based on 85 percent of the site area and minimum density is based 68 percent of the site area.

The site has a maximum density of 7 lots and a minimum required density of 5 lots. The applicant is proposing 7 single dwelling lots. The density standards are therefore met.

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

Zone	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5	3,000	8,500	36	50	30
Lot 1	4,169		43	97	43
Lot 2	4,626		47	97	47
Lot 3	3,252		36	90	36
Lot 4	3,248		36	90	36
Lot 5	3,244		36	90	36
Lot 6	3,690		40	90	40
Lot 7	8,496		88	96.5	88

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

Based on these factors, the proposal meets the density and lot dimension requirements. 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.8) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.7) 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, 11 trees, which provide a total of 213 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 six of the trees are 20 or more inches in diameter. The proposed root protection zones have been modified based on exploratory trenching conducted by the arborist. The arborist report notes that any removal of nuisance species within the root protection zones of protected trees should be done without stump grinding and that wood should be lowered down to the ground using ropes during the removal process to prevent damage to surrounding trees. The root protection zones for the trees to be retained will allow for the type of development anticipated in the R5 zone and installation of the new public street and pedestrian path, and will not conflict with any existing utility easements, proposed services or site grading.

Specifically, the applicant proposes to retain a total of 9 on-site trees, including a grove of Douglas Firs at the east end of the site and two Red Oak trees. The applicant is retaining and protecting of the trees that are 20 or more inches in diameter, three trees that are between 6 inches and 20 inches in diameter, and 184 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 three non-exempt 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 retaining the existing fencing to protect Tree #10141, and additional tree protection fencing is recommended to protect Tree #10140 with a 15-foot root protection zone. Tree #10471, a Douglas Fir on the neighboring property adjacent to proposed Lot 1, is not anticipated to be impacted by development and requires no additional tree preservation method.

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

In order to ensure that future owners of Lots 1, 7, and Tract A are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Lots 1 and 7 and within Tract A must be carried out in conformance with the Tree Preservation Plan (Exhibit C.5) and the Arborist Report (Exhibit A.7).

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

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

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

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

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

Clearing and Grading: In this case, the site is relatively flat, and is not located within the Potential Landslide Hazard Area. However, a new street, a new public multi-use connection, and associated stormwater system is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.4) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, undisturbed areas consistent with the root protection zones of trees to be preserved, per the applicant's Tree Preservation Plan (Exhibit C.5), and the overall limits of disturbed area.

The proposed clearing and grading shown on Exhibit C.4 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed through the installation of sumps in SE 115th and SE 116th Avenue, and by filter strips in the public multi-use path to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new street and the preparation of the lots, without being excessive. The limits of disturbance shown on the applicant's plan includes grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns, assure that the necessary tree protection measures are in place before the grading begins and avoid disturbance on the adjacent properties. Root protection zones were modified by the arborist consistent with exploratory trenching conducted by the arborist. No clearing and grading is proposed within the root protection zones of the trees on the site that are required to be preserved.

The clearing and grading plan indicates areas of topsoil storage and general stockpiling that is located within the area of the new right of way, and outside of the root protection zones of the trees on the site to be preserved. Additional measures will be employed to avoid impacts to trees on abutting properties through the installation of tree protection fencing to protect offsite trees east of the site as shown on Exhibit C.5.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. The Site Development Section of BDS has indicated a Site Development permit may not be required because the proposed work is limited to the scope of the public works permit. However, if the applicant chooses to proceed with grading work prior to final plat approval, a Site Development or Zoning Permit will be required. To ensure the final clearing and grading plan remains in conformance with the approval criteria and includes the work area limits needed to protect the trees designated for preservation, the applicant must obtain a permit which demonstrates that the final clearing and grading plan is consistent with the preliminary clearing and grading plan approved with the land division. To this end, prior to final plat approval, the applicant must obtain either a Site Development or Zoning Permit that shows the grading work, limits of disturbance and tree protection fencing, as depicted on Exhibits C.4 and C.5. With this condition, this criterion is met.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. Although the site is currently connected to the public sanitary sewer, there is an old septic system on the site. The City has no record that this facility was ever decommissioned. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and this criterion is met.

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

Findings: The following tracts are proposed:

- Tract A: Open Space

Tract A is proposed to be owned and maintained by the owner of Lot 7. No maintenance agreement is required for a tract in single ownership. This criterion is met.

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

- A Reciprocal Access Easement and Utility Easement is proposed to allow shared use of a driveway and access to water laterals that will straddle proposed lot lines of Lots 3, 4, 5, and 6;

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 the area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(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.

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

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

Proposed Lots 1 and 7 are on the east side of a north-south oriented street, and are considered interior lots (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots.

Proposed Lots 3-5 are on the north side of an east-west oriented public pedestrian path, and are considered interior lots (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots.

Lots 2 and 6 will be on the corner, and will be wider than the other lots.

This criterion is therefore met for all proposed lots.

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. As noted in the description, applicant is proposing to divide this 40,759 square foot site into seven lots and a private tract. Lots 1 and 2 will front on SE 115th Ave and will each provide an on-site parking space for 1 to 2 vehicles. Lots 3-6 will front along a new public multi-use path along the southern property line, which will be served by a shared driveway providing vehicular access to each of the parcels along the north property lines. Lot 7 will front on a public extension of SE 116th Avenue, with access north of the cul-de-sac. The applicant has initiated Public Works permit TH1239 EP688 (22-143402 WT) for the required public improvements, and has received 30% concept approval at time of this decision. Each of the seven lots will provide at least one on-site parking space, which maximizes on-street parking availability within the surrounding neighborhood while also continuing the neighborhood character of the area. With the public street extension, multi-use path, and provided on-site parking spaces, PBOT finds the neighborhood livability will be maintained.

To support the subdivision approval criteria, the applicant submitted a professional prepared Transportation Analysis, provided by Lancaster Mobley, dated April 22, 2022. The report estimated that based on the proposed lot sizes, there is a maximum of 22 units total that could eventually be constructed on the seven lots according to the Residential Infill Project (RIP). This includes up to 6 units of single-family attached housing (lots 1, 3, & 4) and up to 16 units of multifamily housing (lots 2, 5, 6, & 7), for a total of 22 units. To estimate the maximum trip generation of the proposed subdivision, trip rates were used from the *Trip Generation Manual, 5th Ed.* Data from land-use code 215 (*Single-Family Attached Housing*) and 220 (*Multifamily Housing, Low-Rise*) was used to estimate the maximum potential trip generation of the site based on the number of dwelling units. The trip generation calculations summarized in Table 3 of the report, shows that future development within the subject property could be projected to generate 8 additional morning peak hour trips, 10 additional evening peak hour trips, and 142 additional average weekday trips. Results of field observations conducted by Lancaster Mobley indicate that all study intersections are currently operating acceptably during the weekday morning and evening peak periods. Hence, it concluded that the estimated additional weekday morning and evening peak hour trips following the proposed subdivision, the study intersections are projected to continue operating acceptably per City standards. The applicant's traffic engineer also conducted an on-street parking analysis within the surrounding area. As summarized in Table 9 of the Transportation Analysis, the proposed development will raise the on-street parking demand from 19.2% to 35.8% occupied. Based on the parking analysis, adequate on-street parking is available to serve any potential future site development in addition to the existing surrounding land uses. Therefore, with the public street extension, multi-use path, and provided on-site parking spaces, PBOT finds that the on-street parking supply is sufficient to support the increase in demand, and that 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.

As demonstrated in the transportation analysis memo, transit availability is provided by three TriMet bus stops within an approximate half-mile from the project site. Mostly complete sidewalks and adequate crossing measures along higher-volume roadways are available between the site and the nearest stops which serve each transit line. A summarized description of each transit line is shown in Table 6. Sidewalks in the immediate vicinity are provided intermittently along nearby roadways, including SE Pardee St, SE 116th Ave, and portions of SE 115th Ave. Adequate crossing measures (marked crossings) are provided across all the major intersections of SE Holgate Blvd at SE 122nd Ave. The project will construct a 15-ft wide public pedestrian connection and frontage improvements along SE 115th Ave. For area intersections/roadways that don't provide marked crossings and/or sidewalks, these ROWs are low-volume streets which traffic travels at low speeds. For bicycles, SE Holgate Boulevard will likely serve as the primary east/west route, and SE 111th Avenue, SE 112th Avenue, and SE 122nd Avenue

will likely serve as the primary north/south routes. The remaining neighborhood streets in the immediate site vicinity are typically low-stress roadways that provide alternative routes to these and other nearby bicycle paths and designated greenways. Therefore, the resulting proposed development will not negatively impact transit access or other transportation modes and will improve upon the established pedestrian environment.

PBOT has reviewed and concurs with the information supplied and the methodology, assumptions and conclusions made by the applicant's traffic consultant. With the conditions that that Lots 3-7 provide at least one on-site parking space and a Performance Guarantee for the Public Works permit shall be paid prior to final plat, 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 within SE 115th Avenue, 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>A new water main extension must be installed in the cul-de-sac extension of SE 116th Avenue. The nearest water service is located in SE 116th Avenue but the applicant must make arrangements to extend a new water main in the extended cul-de-sac of SE 116th to ensure service is available to Lots 3-7. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval.</p> <p>Water services to lots 3, 4, and 5 are proposed to cross property lines in order to access each lot. Water services for these lots must be located within the boundaries of the access easement. The access easement must be written to allow utilities to reside within it and must be reviewed and approved by the Water Bureau prior to final plat. With these conditions, 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> <ol style="list-style-type: none"> 1. <i>Existing Sanitary Infrastructure:</i> According to available GIS data, the following sewer infrastructure is located in the vicinity of the project site: <ol style="list-style-type: none"> a. Public 8-inch PVC sanitary sewer in SE 115th Ave (BES as-built # 4416). b. Public 8-inch HDPE sanitary sewer in SE 116th Ave (BES as-built # 6895). 2. <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. 3. <i>Existing Development:</i> According to City records, the existing structure on proposed Lot 1 is currently connected to the sanitary sewer SE 115th via a lateral located approximately 110 feet from the maintenance hole in ACK417. This indicates that the existing lateral will cross the proposed new lot line. Therefore prior to final plat approval the applicant must: <ol style="list-style-type: none"> 1) Cap the existing lateral to provide future service to Lot 2 and establish a new service lateral for the

existing house on Lot 1 to the sewer in SE 115th Ave within the frontage of Lot 1.

b. *Proposed Development*: Lot 2 will be served by a new or existing connection to the sewer in SE 115th Ave. Lots 3 – 6 will be served by new connections to the extended public sewer in the new public multi-use pathway south of the property. Lot 7 will be served by a new connection to the new maintenance hole in the new cul-de-sac. Each connection will be within the frontage of each property.

c. *Public Works Permit*: Currently there are no public sewers directly available to Lots 3 - 7; therefore, the applicant proposes to extend a public sewer to provide individual connection locations. Under Public Works Permit (PWP) # EP688, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension on 8/16/22; therefore, BES finds that sanitary sewer can be made available to the lots 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.

4. *Connection Requirements*: Connections to the City sewer system must meet the standards of the City of Portland's [Sewer and Drainage Facilities Design Manual](#), [PCC 17.32.090](#), administrative rules [ENB-4.07](#) and [ENB-4.17](#), and all other relevant City codes and rules. Sanitary sewage from private property must be separately conveyed to the property line and connected through individual laterals for discharge to the City separate sanitary or combined sewer. Per [ENB-4.07](#), sewer connection permits are required to make new connections to City mains and laterals, relocate or upsize existing laterals, and repair sewers in City right-of-way. The permittee is responsible for verifying the location, depth and size of an existing sewer lateral and for ensuring the lateral is clear of obstructions prior to connection.

With the recommended conditions of approval, staff finds the applicant's proposed sanitary sewer service acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal approval criterion.

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

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:

1. *Existing Stormwater Infrastructure*: According to available GIS data, the following stormwater infrastructure is located in the vicinity of the project site:

- a. Public underground injection control (UIC) systems ("sumps") infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. Stormwater from private development cannot be discharged to public UICs.

2. *General Stormwater Management Requirements*: Development and redevelopment sites that include any of the triggers listed in PCC 17.38.040 are subject to the policies and standards of PCC 17.38.035, Portland's [Stormwater Management Manual](#) (SWMM) and [Source Control Manual](#) (SCM). Projects must comply with the current adopted version of the SWMM as of the permit application date. A fundamental evaluation factor in the SWMM is the Stormwater Infiltration and Discharge Hierarchy (Section 1.3.3), which sets the framework that will be used to determine when a project's stormwater runoff must be infiltrated onsite and when offsite discharge will be permitted, and the parameters that must be met for either scenario. If tested infiltration rates on a property are greater than or equal to 2 inches per hour, onsite infiltration will be required unless the site qualifies for the ecoroof exception per Section 3.2.1 or infiltration is determined infeasible based on site conditions described in Chapter 2 of the SWMM. Note that maximum building coverage allowed by the zoning code, including below grade development, does not exempt the applicant from stormwater requirements. Pollution reduction and flow control requirements must be met using vegetated facilities to the maximum extent feasible, though roof runoff and some paved impervious surfaces are exempt when discharging directly to a UIC (refer to Sections 1.3.2, 1.3.4, 3.2.4 and 4.2.2 of the SWMM).

3. *Private Property Stormwater Management*: Stormwater runoff from this project must comply with all applicable standards of the SWMM and SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee.

- a. *Existing Development:* Per the submitted plans stormwater runoff from the existing house on Lot 1 discharges to a drywell located within Lot 1. This location appears to meet setbacks to the proposed new property lines.
- b. *Proposed Development:* Stormwater runoff from this project must comply with all applicable standards of the SWMM and the SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's Simplified Approach stormwater report from Humber Design Group (3/21/22), and infiltration testing report from Central Geotechnical Services (11/15/21), that includes Open Pit infiltration test results of greater than 20 inches per hour on this site. The applicant proposes to infiltrate runoff from the development onsite via drywells that can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM. Note that the submitted stormwater report includes a conceptual site plan that does not align with the actual proposal. However, the infiltration testing report and the stormwater report are adequate to show the feasibility of stormwater management on each Lot.

4. *Public Right-of-Way Stormwater Management:* Stormwater runoff from public right-of-way improvements as required by the City of Portland Bureau of Transportation (PBOT) must be managed according to the standards of the SWMM and the Sewer and Drainage Facilities Design Manual.

- a. PBOT requires the construction of public frontage improvements, which trigger public drainage and stormwater management improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual. Per Public Works Permit (PWP) # EP688, stormwater from the public right-of-way will be managed with installation of sumps in SE 115th Ave and 116th Ave, and by filter strips in the public multi-use pathway. BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the right-of-way stormwater improvements on 8/16/22; therefore, BES finds that public stormwater facilities can be constructed as shown on the applicant's Preliminary Site Utility Plan. Prior to final plat approval BES will require approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document.
- b. If a stormwater facility is being proposed within the right-of-way and there is soil and/or groundwater contamination, BES will require the applicant to demonstrate that contaminants are not further mobilized or exacerbated by localized stormwater infiltration (PCC 17.38, and SCM Section 1.12).
- c. The City's Hazardous Substances Code (PCC 17.24.067) requires the excavation and removal of disturbed contaminated soils from right-of-way (ROW) access areas and utility corridors. The soils must be replaced with clean fill at a minimum depth of 5 feet below grade of ROW. Utility corridors require clean fill. The minimum horizontal and vertical placement of clean fill shall be based on the type of utility proposed. Additional information regarding clean fill requirements can be obtained by contacting the BES Pollution Prevention Manager at 503-823-5843. A demarcation/contaminant barrier is also required when it has been determined the soils are contaminated at depth. Any additional fill needed for grades must also meet DEQ clean fill standards. Erosion control measures for contaminated soils (SCM *Section 1.12*) must also be met. Soil stockpiles must be covered and contained with a barrier on all four sides, with an impervious layer underneath the stockpile to inhibit contaminants from leaching back into the soil.

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

33.654.110.B.1 Through streets and pedestrian connections

33.654.130.C Future extension of proposed dead-end streets & pedestrian connections

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

The block on which the subject property is located does not meet the noted spacing requirements. Therefore, there should be a north-south through street provided in the vicinity of the site. The applicant has proposed to extend the existing north-south dead-end street (SE 116th Avenue) into the site from the north. The subject site is directly adjacent to a developed residential lot and a public park (Raymond Park) to the south. Therefore, a cul-de-sac is proposed at the terminus of the street.

The applicant has proposed to provide an east-west public multi-use path which will connect SE 115th and SE 116th Avenues. This will better meet pedestrian connection requirements.

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.

As discussed above, the adjacent sites to the south of the site are already developed. There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed dead-end street beyond the southern boundary of the site. This criterion is met.

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

The proposal includes a public dead-end street, which will be located in the new public right-of-way. As discussed under the findings for through streets above, a new public north-south through street is not required for this proposal. The dead-end street will serve only 5 new lots and it is approximately 106 feet in length from the portion of the site along SE 116th Avenue to the center of the radius turn-around. 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.

Along the frontage of the subject site, SE 115th Avenue is improved with a paved roadway, and a gravel shoulder on both sides. 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, PBOT has determined that curb and sidewalk improvements must be made in order to meet City standards ensure that safe pedestrian travel is possible to and from the proposed development.

A new public street extension of SE 116th Avenue will serve some of the lots in the land division. The street is anticipated to serve the vehicle traffic, pedestrians and bicyclists accessing these lots. The street dedication is proposed to be 41 feet wide, to provide room for the construction of a 20-foot-wide paved roadway that allows two travel lanes, two 6-inch curbs, and a 5-foot-wide sidewalk. The right-of-way is a dead-end street and includes a cul-de-sac turnaround. The applicant will be disposing of stormwater from the street in a sump located in the area. PBOT has indicated that the proposed street width (dedication) and improvements are sufficient to serve these expected users.

A 15-foot-wide public pedestrian connection will provide connectivity between SE 115th and SE 116th Avenues. PBOT has indicated that this connection will meet the connectivity requirements of 33.654.110.

The applicant has submitted Public Works permit TH1239 EP 688 (22-143402 WT) for the

required improvements and has received 30% concept approval. The applicant must provide financial assurances for the construction of the public improvements prior to final plat approval. In addition, the right-of-way dedication necessary to accommodate the new public street and pedestrian connection must be shown on the final plat.

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

C. Street Trees

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. *SE 115th Ave: The site has approximately 103 feet of street frontage. The right-of-way is improved with pavement only. There are no overhead high voltage power lines. There are 3 street trees.*
 - i. *27" Norway Maple in fair condition*
 - ii. *26" Norway Maple in fair condition*
 - iii. *29" Norway Maple in poor condition and becoming dangerous*
- b. *SE 116th Ave: The site has approximately 21 feet of street frontage. The right-of-way is improved with pavement only. There are no overhead high voltage power lines. There are 0 street trees.*

2. *Street Tree Preservation ([11.50.040](#))*

The applicant proposes to remove the following:

- i. *27" Norway Maple*
- ii. *26" Norway Maple*
- iii. *29" Norway Maple*

The proposed tree removal(s) may all be permitted for removal during the appropriate development permit, due to nuisance species and condition. Due to condition, the 29" Maple will be required to be removed. Street tree planting standards must also be met in accordance with 11.50.060.C.

3. *Street Tree Planting ([11.50.060.C](#))*

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 1.5 caliper inches.

Street tree planting are subject to Title 11 regulations during the permit review process and may be deferred until the completion of the building permit on each new lot.

Street tree planting may be exempt under [11.50.060.B](#) when existing above or below grade utilities prevent planting street trees or when the existing planting strip is less than 3-feet wide.

When the required number of trees cannot be planted, a fee in lieu of planting may be required during the permit review process. Fees-in-lieu will be charged in accordance with the [Title 11 Trees Fee Schedule](#).

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.

This criterion is met, with the condition that the required dedication is shown on the final plat and waivers are signed prior to final plat approval.

33.654.120.C.3.c. Approval criterion for turnarounds.

An 18-foot radius turn-around is proposed at the terminus of SE 116th Avenue. The configuration of the turn-around has been reviewed by PBOT and the Fire Bureau.

Transportation and the Fire Bureau have indicated that the size and configuration of the turn-around are adequate to provide safe vehicular and bicycle movement for the 5 new lots that will use the cul-de-sac. A sidewalk is required along both side of the street that extends all the way around the turn-around, which will provide for safe and convenient pedestrian access along the street to and from the interior of the land division to the public pedestrian connection along the south of the site and abutting sidewalk along the frontage of SE 115th Avenue. The proposed street dedication has been sized to provide adequate room for the turn-around. This criterion is met.

33.654.120.E. Approval criterion for the width of pedestrian connections.

Findings: A 15-foot-wide public pedestrian connection is proposed along the south property line of the subject site, connecting the cul-de-sac of SE 116th to SE 115th Avenue, and providing public frontage for Lots 3-6. PBOT has indicated approval for the configuration of the pedestrian connection. The applicant has submitted Public Works permit TH1239 EP 688 (22-143402 WT) for the required improvements and has received 30% concept approval.

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

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

DEVELOPMENT STANDARDS

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

Future Development

Among the various development standards that will be applicable to Lot 1, 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 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 R5 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 Lot 1 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 5.40 feet from the new property line with an eave that is three feet from the 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.
- Accessory Structures – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the garage that straddles the line between proposed Parcels 1 and 2 must be removed prior to final

plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.

- Due to the land division, the parking space for the existing house will be located on a different lot. No parking is required for Household Living uses in the single-dwelling zones. The applicant proposes to add a replacement parking space to serve the existing house. When parking is proposed to be added, permits must be obtained and finalized for the parking space prior to final plat approval.
- 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, Lot 1 with existing house will no longer meet this standard. Lot 1 is 4,169 square feet, therefore 1,558 square feet of tree area is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Lot 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 https://www.portland.gov/bds	Title 24 – Building Code, Flood Hazard, Clearing and Grading Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way OAR 340-071 and OAR 340-073 – Onsite Wastewater Treatment Systems
Environmental Services/503-823-7740 https://www.portland.gov/bes	Title 17 – Sewer Improvements Stormwater Management Manual
Fire Bureau/503-823-3700 https://www.portland.gov/fire	Title 31 – Fire Regulations Portland Fire Code
Transportation/503-823-5185 https://www.portland.gov/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 https://www.portland.gov/parks	Title 11 –Trees
Water Bureau/503-823-7404 https://www.portland.gov/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; providing an Emergency Vehicle Access Easement over the private access drive; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers for Lots 3 and 4; and fire apparatus

access, including aerial access. These requirements are based on the technical standards of Title 31 and the Portland Fire Code.

CONCLUSIONS

The applicant has proposed a 7-lot subdivision with a private tract, as shown on the attached preliminary plans (Exhibits C.1-C.6). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation of nine on-site trees and four off-site trees, tract ownership, shared access easements, dedication for and construction of a new public street extension and public pedestrian connection, site grading, water line access, stormwater management, and fire bureau access requirements.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 7-lot subdivision, that will result in seven standard lots and one open space tract (Tract A) as illustrated with Exhibits A.7 and C.1 – C.6, subject to the following conditions:

A. Supplemental Plan. An additional supplemental plan shall be submitted with the final plat survey for Life Safety, BES, and 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 and dimensions of any buildings or accessory structures on the site at the time of the final plat application;
- The surveyed location of any sanitary laterals to the existing house;
- 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 116th Avenue and the public pedestrian connection. The required right-of-way dedications must be shown on the final plat.
2. A utility easement, for the benefit of Lots 3, 4 and 5, shall be shown and labeled over the relevant portions of Lots 4, 5, and 6 for the provision of water laterals.
3. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the entirety of the private driveway serving Lots 3-6 to the satisfaction of the Fire Bureau.
4. An 18.50-foot wide Reciprocal Access Easement shall be shown and labeled on the final plat, extending from SE 116th Avenue and adjacent to the rear lot lines of Lots 3-6, as shown on Exhibit C.1. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
5. The Open Space tract shall be noted on the plat as "Tract A: Open Space." A note must also be provided on the plat indicating that the tract will owned and maintained by the owner of Lot 7.
6. 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.11-C.13 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 and Alleys**

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontages. 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, Bureau of Environmental Services, and Urban Forestry for required street frontage improvements. 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 (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 C.4) and include:
 - Tree Protection consistent with Conditions D.1 and D.2
 - 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.

Utilities

3. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in SE 116th Avenue and within the public multi-use pathway. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
4. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SE 116th Avenue.
5. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Lots 3-5, 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 Lots 3-5, 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.

Existing Development

6. The applicant must obtain a finalized demolition permit for removing the garage crossing the property line of Lots 1 and 2. Prior to removal of this structure, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Conditions D.1 and D.2.
7. 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. Prior to decommissioning, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Conditions D.1 and D.2.
8. Prior to final plat approval the applicant must demonstrate to the satisfaction of BES that a sewer lateral located within the frontage of Lot 1 by capping the existing lateral for the future use of development on Lot 2 and establishing a new service connection

from the existing structure to the public sewer. The applicant must obtain finalized plumbing permits for this work prior to final plat approval.

9. If a parking space is installed on Lot 1, the parking space must be a minimum of 9' x 18' and located out of the new front setback for the lot with the existing house. In addition, it must be in a location that can be accessed from the existing street. The applicant must obtain a finalized Zoning Permit for installation of the parking space. The permit plans must include the note: *This permit fulfills requirements of Condition C.9 of LU 22-135384.* The new parking space must also be shown on the supplemental plan.
10. The applicant must meet the tree density standard of 11.50.050 on Lot 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

11. A Maintenance Agreement shall be executed for the Reciprocal Access and Utility Easement described in Conditions B.2-B.4 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.
12. If required by the Fire Bureau, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lots 3-5 to contain internal fire suppression sprinklers. The acknowledgement shall be referenced on and recorded with the final plat.
13. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 7 and Tract A. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgement 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 Lots 1, 7, and Tract A shall be in conformance with the Tree Preservation Plan (Exhibit C.5) and the applicant's arborist report (Exhibit A.7). The following trees must be preserved, with root protection zones as indicated on Exhibits C.5:

Tree Number	Common Name	Proposed RPZ
10012	Douglas Fir	14.5'
10117	Douglas Fir	10'
10118	Douglas Fir	14'
10121	Douglas Fir	10'
10122	Douglas Fir	8'
10123	Douglas Fir	14'
10130	Douglas Fir	12'
10470	Red Oak	6'
10750	Red Oak	3.5'

Tree protection fencing is required along the root protection zone of the trees to be preserved as shown on the Tree Preservation Plan and described in the arborist report (Exhibit A.7). The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground.

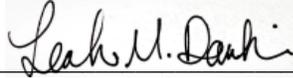
2. Development on Lots 1, 7, Tract A, and within the public pedestrian connection shall provide tree protection for the following off-site trees and be in conformance with the Proposed Improvements Plan and Tree Preservation Plan (Exhibit C.2 and C.5) and the applicant's arborist report (Exhibit A.7). The following off-site trees must be preserved, with root protection zones as indicated on Exhibits C.2 and C.5:

Tree Number	Common Name	Proposed RPZ
10140	Douglas Fir	15'
10141	Douglas Fir	10'
10471	Douglas Fir	9'

Tree protection fencing is required along the root protection zone of the trees to be protected as shown on the Tree Preservation Plan and the applicant's arborist report (Exhibit A.7). Additional tree protection fencing is required to protect Tree #10140, creating a 15-foot root protection zone. The fence must be a 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground.

3. The applicant must meet Transportation requirements by providing at least one on-site parking space on Lots 3-7.
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. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Lots 3-5. Please refer to the final plat approval report for details on whether or not this requirement applies.

Staff Planner: Leah Dawkins

Decision rendered by:  **on October 27, 2022.**

By authority of the Director of the Bureau of Development Services

Decision mailed October 31, 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 April 22, 2022, and was determined to be complete on August 9, 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 April 22, 2022.

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 21 days (Exhibit G3). Unless further extended by the applicant, **the 120 days will expire on: December 28, 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 November 14, 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. Applicant Narrative
 - 2. Applicant Resubmittal Letter-08/08/22
 - 3. Original Stormwater SIM Form
 - 4. Revised Stormwater SIM Form-06/07/22
 - 5. Infiltration Testing Report
 - 6. Original Arborist Report
 - 7. Revised Arborist Report-10/26/22
 - 8. Transportation Analysis
 - 9. Fireflow Email
 - 10. Historic Plat Map
 - 11. Title Report
 - 12. Neighborhood Contact Emails
 - 13. Original Land Division Plans
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division Plan
 - 2. Proposed Improvements Plan (attached)
 - 3. Utility Plan
 - 4. Preliminary Clearing and Grading Plan
 - 5. Tree Plan (attached)
 - 6. Fire Plan
 - 7. Civil Details
 - 8. Existing Conditions Survey
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Section of BDS
- F. Correspondence:
 - 1. Ernest Wood, 08/27/22, request for a fence along the public path
- G. Other:
 - 1. Original LU Application and Expedited Land Division Acknowledgement
 - 2. Incompleteness Letter-05/13/22
 - 3. Timeline Extensions

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).