



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

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Date: November 18, 2022
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 21-100807 LDP

GENERAL INFORMATION

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

Applicant: Daniel Silvey, DBS Group LLC
DBS Group LLC
PO Box 96
Tualatin, OR 97062
503-201-8537 or danielsilvey@kniperealty.com

Owners: D B S Group LLC
Po Box 205
Tualatin, OR 97062

Site Address: 55 NE GRAHAM ST

Legal Description: BLOCK 28 W 30' OF LOT 18 E 20' OF LOT 19, ALBINA
Tax Account No.: R009610840
State ID No.: 1N1E27AD 08800
Quarter Section: 2730

Neighborhood: Eliot, contact Brad Baker at lutcchair@eliotneighborhood.org
Business District: Soul District Business Association, contact at Info@nnebaportland.org
District Coalition: Northeast Coalition of Neighborhoods, contact at info@necoalition.org

Plan District: Albina Community
Other Designations: Eliot Conservation District

Zoning: R2.5 – Residential (Single-Dwelling Residential 2,500)
Case Type: LDP-Land Division Partition
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: The applicant is proposing to divide this 7,500 s.f site into two parcels. The existing single-family residence was built in 1884 and is considered a contributing structure within the Eliot Conservation district and will be retained on Parcel 1. Parcel 1 will be 2,764 s.f. in site area and Parcel 2 a flag lot will be a 4,736 s.f. in site area. There are five trees existing on the site and three are subject to the land division tree preservation regulations. The applicant is proposing to preserve two trees identified on the site plan as Tree #3 a 11-inch Fig Tree and Tree #4 a 12-inch American Pussy Willow tree.

In order to show feasibility of providing services and other criteria, the applicant has provided a conceptual development plan showing the existing house being retained on Parcel 1 and a future conceptual development plan for a future fourplex on Parcel 2. The applicant is utilizing the Residential Infill Option of 33.110.265 to qualify for the additional density for Parcel 2. On-site parking is not required (33.266.110).

The site is within the Eliot Conservation District and the future development on Parcel 2 will be reviewed through a Historic Resource Review, which is a separate land use review process. The applicant has submitted for the Historic Resource review under LU 22-107492 HR.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and (4) no other concurrent land use reviews (such as an Adjustment or Environmental Review) are requested or required (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 two 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 site is an interior lot on the north side of NE Graham Street. There is single grass/gravel driveway provides access to the on-site parking space. A single-story single-family residence is being retained on the site. This Victorian cottage style house was built in 1884 and is a contributing structure in the Elliot Conservation District. A rock retaining wall leads to the entry steps to the front porch. A wooden fence encloses the rear portion of the site, providing privacy from the street. A sunken patio area is at the rear of the house and behind the patio wall, and a detached accessory structure exists on top of decking. The rear yard area is lawn, and patio, with a few deciduous trees and a few shrubs. The surrounding houses are a mix of styles, including Victorian style, Dutch colonial, foursquare, bungalows and cottage. There are some newer contemporary houses within the surrounding area.

Within this vicinity surrounding this area, properties are developed with single-story 1 ½ story, two story houses and a few duplexes mixed. The Matt Dishman Community Center is to the south of the site. Dawson Park is to the northwest and Lillis-Albina Park is to further southwest of the site. R2.5 zoning is to the north, south, west, and east of the site. Legacy Emanuel Medical Center is further west on NE Graham Street. The zoning changes to RM2-

Residential Multifamily along N. Williams Avenue to the west of the site and CM3- Mixed Commercial zoning along NE Martin Luther King to the east of the site.

Infrastructure:

- **Streets** – The site has approximately 50-ft. of frontage on NE Graham Street. There is one driveway entering the site that serves the existing house on the site. At this location, NE Graham Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 400-ft. from the site at N. Williams Avenue via Bus #4, 24 and 44 and approximately 1000-ft. from the site at NE Martin Luther King Boulevard via Bus #6

NE Graham Street is a 31-ft. paved roadway within a 51.3-ft. right-of-way. Along the 50-ft. wide site frontage the pedestrian corridor includes a 10—ft. pedestrian corridor (.5-ft. curb, 2.5-ft. furnishing zone, 6-ft. sidewalk, 1-ft. frontage zone.).

- **Water Service** – There is an existing 6-inch water main in NE Graham Street. The existing house is served by a 5/8-inch metered service from this main. Water service is discussed under 33.651.
- **Water Bureau Fire Flow Information:** The nearest fire hydrant is south of NE Graham Street in N. Williams Avenue. This fire hydrant has a fire flow of 2,500 gpm at 20 psi residual. A second fire hydrant is located south of NE Graham Street in NE Rodney Avenue, with a fire flow of 2,400 gpm at 20 psi residual.
- **Sanitary Service** - There is an existing 10-inch clay combined sewer in NE Graham Street (BES as-built# 20340). The existing house is currently connected to the combined sewer in NE Graham Street. Sanitary service to the future lot is later discussed under 33.652.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The applicant is proposing to provide on-site stormwater management facility for the proposed development, which is discussed later in this report under 33.653.030.

Zoning: The **R2.5 -Single-Dwelling -2500** designation is one of the City’s single-dwelling zones which allows a mix of housing types that are single-dwelling in character. It is intended for areas near, in, and along centers and corridors, and near transit station area. This zone serves as a transition between mixed use or multi-dwelling designations and lower density single-dwelling designations. The zone implements the comprehensive plan policies and designations for single-dwelling residential housing.

The **Albina Community Plan District** implements the Albina Community Plan. The plan district’s provisions are intended to ensure that new higher density commercial and industrial developments do not overwhelm nearby residential areas. Infill housing compatibility and affordability is encouraged by eliminating off-street parking requirements for small multi-dwelling projects. The plan district’s provisions also encourage the development of new housing along Martin Luther King Jr. Boulevard by allowing new housing projects to include ground level commercial uses that orient to King Boulevard. The

Eliot Conservation District denotes an area with common historic values significant to the neighborhood and seeks to contribute to the preservation of significant features of Portland’s development history. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to historic design review.

The **Historic Resource Protection overlay** is comprised of Historic and Conservation Districts, as well as Historic and Conservation Landmarks and protects certain historic resources in the region and preserves significant parts of the region’s heritage. The regulations implement Portland’s Comprehensive Plan policies that address historic

preservation. These policies recognize the role historic resources have in promoting the education and enjoyment of those living in and visiting the region. The regulations foster pride among the region's citizens in their city and its heritage. Historic preservation beautifies the city, promotes the city's economic health, and helps to preserve and enhance the value of historic properties.

Land Use History: City records indicate there are no prior land use reviews for this site. There is the following land use case:

- LU 22-107492 HR- Historic Design Review for the future development on the future flag lot is pending at this time.

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 **May 3, 2022**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps, or wetlands are evident on the site.
L	33.654.110.B.2 - Dead end streets	No dead-end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zone	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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. Based on the applicant's survey, the site area is 7,500 square feet. The maximum density in the R2.5 zone is one unit per 2,500square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of three lots and a minimum required density of one lot. The applicant is proposing two residential lots. The density standards are therefore met.

33.611.200 Lot Dimension Regulations:

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)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R2.5	1,600	NA	36	40	30	40	40
Parcel 1	Flag portion only is 3,863 s.f. Total Flag Lot with pole is 4,736				12	50	77.25
Parcel 2	2,764		38	72.75	38		

* 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 are exempt from the minimum front lot line standard.

Flag Lots

When allowed

In this case the applicant is proposing two parcels, only one of which is a flag lot. The existing house has been on the property for more than five years and are located so that it precludes a land division that meets minimum lot width standards. The minimum density standards are met. Therefore, the thresholds for when a flag lot is allowed to be created have been met.

Dimension

The proposed flag lot meets applicable Zoning Code standards found in 33.611.400 because it has a “pole” at least 12 feet wide that connects to a street, and as shown above, meets the minimum lot area, width, and depth standards.

Vehicle Access

Where it is practical, vehicle access must be shared between the flag lot and the lots between the flag portion of the lot and the street. Factors that may be considered include the location of existing garages, driveways, and curb cuts, stormwater management needs, and tree preservation. Access easements may be used.

The applicant’s narrative (Exhibit A.1) states *“Vehicle access for Parcel 2 is not proposed. Pedestrian access for Parcel 2 is proposed through the flagpole portion of Parcel 2. Parcel 1 will retain an access to a new parking pad from NE Graham Street.”*

No parking is required for Household Living uses in the single-dwelling zones. However, the applicant is proposing parking on Parcel 1 with the existing house and has demonstrated the parking can meet the size, location. Typically, to meet the flag lot standards vehicle access to parking would be shared between the two parcels over the access pole to the flag. In that scenario on-site parking for the existing house would have been relocated to the rear of Parcel 1 with vehicle access via the access pole of Parcel 2 and both parcels sharing the access pole. However, the applicant is not proposing to provide vehicle access or on-site parking for future development on Parcel 2, but to provide on-site parking for Parcel 1 with the existing house. To ensure on-street parking is maintained and no additional curb-cuts occur for vehicle access along this site’s frontage, a condition is necessary preventing additional curb cuts and vehicle access within the 12-ft. access pole portion of the Parcel 2 frontage in the future, Prior to final plat approval, the existing driveway must be removed and curb cut approach for the existing driveway must be closed. A zoning permit is required to document the removal of the existing driveway and right-of-way permit is required close the curb cut. No vehicle access or curb-cuts are allowed within the 12-ft. access pole of Parcel 2.

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

Additionally, the lot lines are straight and side lot lines are perpendicular to the street.

Overall, the findings above show that the applicable density and lot dimension standards are met. With the conditions noted above, 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.

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.

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. 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.

Trees that are healthy, native, and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization, and limiting impacts on adjacent sites.

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.1) that shows the location and size of tree on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.21) that identifies this 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.

There are five existing trees on the subject site. In order to identify which trees are subject to these requirements, the applicant provided an arborist report with tree plan (Exhibit A.21) and a survey (Exhibit C.3) that shows the location and size of trees on the site and adjacent to the site. The arborist report (Exhibit A.21) 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 in relationship to the future lot configuration and future development (Exhibit C.2). The applicant and Arborist provided a narrative addressing the tree preservation standard and criterion (Exhibit A.1 & A.21)

<u>Tree #</u>	<u>Common Name</u>	<u>size (dbh)</u>	
#1	English Hawthorn (Crataegus monogyna)	31	Nuisance/Exempt- Straddles the lot line and proposed to be retained
#2	American Pussy Willow (Salix Discolor)	16	Remove
#3	Fruiting Fig (Ficus Carica)	11	Preserve
#4	American Pussy Willow (Salix Discolor)	12	Preserve
#5	Atlas Cedar (Cedrus Atlantica)	5	Exempt less than 6- inches- applicant proposes to retain it

Options to meet the Tree Preservation Standards (33.630.100) include:

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

Option 2: Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least 25 percent of the total tree diameter on the site.

Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site.

Option 4: All the trees are less than 20 inches in diameter and at least 35 percent of the total tree diameter is being preserved.

Based on this information there are only three trees on the site that are subject to the tree preservation standard and none of these trees are greater than 20-inch in diameter. These three trees provide a total of 39 inches of tree diameter. The applicant is proposing to preserve tree #3 and tree #4. By retaining trees #3 and #4 a total of 23-inches of tree diameter is being retained, which is 58% of the total tree diameter, so this proposal complies with Option 4.

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

In order to ensure that future owners of Parcel 2 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 Parcel 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.2 & C.3) and the Arborist Report (Exhibit A.21).

At the time of development, parcels 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.

With the noted conditions, this criterion is met.

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

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

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

Clearing and Grading: In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable, as reflected on the preliminary clearing and grading with tree preservation plan (Exhibit A.11). The arborist recommended tree protection measures for trees identified to be preserved, as discussed above under Criterion B -Tree Preservation. This tree protection will be required for these trees at the time of development on Parcel 2. The arborist also discusses retaining and preserving the English Hawthorn tree (T1) that straddles the common east lot line between this property and the neighboring property to the east and 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 on-site sewage disposal system (septic system/cesspool) 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.

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

33.641.020, Traffic Impacts, Approval Criterion

- A.** 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; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on

the system from the proposed development are mitigated as required by 33.641.020.B

- B.** Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements.

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):

Findings: The applicant provided a narrative addressing each evaluation factor. Staff concurs with the applicant's findings. The existing roadway and sidewalk networks are complete in this area. Improvements within the frontage of the site meet City standards. The subject block meets City standards for connectivity. The area is served by multiple transit lines and multiple bicycle routes including striped bicycle lanes on N. Williams Ave. and a neighborhood greenway on N. Rodney Ave. Based on information in the City's database on Portland Traffic Deaths and Injuries since 2010, there have been no fatal accidents on NE Graham St. between NE Martin Luther King Jr. Blvd. and N. Vancouver Ave. where Graham St. enters the Legacy Emanuel Medical Center. There have been five injury accidents. Three were at the intersection with N Vancouver Ave, one at the intersection with N. Williams Ave, and one at the intersection with NE Martin Luther King Jr. Blvd. One was an injury to a person walking and four were injuries to people on bicycles. All of these crashes happened where NE Graham St. crosses higher volume streets. While this is a higher than ideal crash rate, it does not rise to the level of safety concern which should limit development in conformance with the base zone. The site is well served by transit with bus service available on N. Martin Luther King Jr. Blvd, and N Vancouver Ave/N Williams Ave couplet. The site is exempt from required vehicle parking. Proposed parcel 1 is anticipated to have a single 9-ft wide driveway. No vehicle parking is shown for proposed parcel 2. Providing a single driveway to serve both lots will preserve curb space to allow for the retention of on street parking. To staff's knowledge, PBOT has not identified any level of service concerns with this segment in the TSP or other planning documents. It is believed this segment functions well for travel via all modes and has capacity to absorb the anticipated vehicle trips from one additional residential lot.

No off-site mitigation is required for the proposed development. The improvements within the existing frontage meet City standards as explained below. Any sidewalk panels which are damaged or destroyed during construction will be required to be replaced. The relocation of the driveway will result in the need to close the exiting curb cut and rebuild the curb.

No mitigation is necessary for the transportation system to be capable of supporting the proposed development in addition to the existing uses in the area. PBOT concludes the transportation system will be capable of supporting the proposed development in addition to the existing uses. These criteria are met.

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

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

33.651 Water Service standard – See Exhibit E.3 and Exhibit E.4

The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report. The existing house will retain the existing metered service. Future Flag Lot, Parcel 2, will receive water service within its 12-ft. access pole frontage.

The Fire Bureau has reviewed the fire flow (Exhibit A.4) and determined the nearest fire hydrant has adequate capacity.

The water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1

The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report.

BES reviewed the preliminary land division site plan with proposed conceptual improvement development, and utility plan (Exhibit C.2) and the response is summarized below:

Sanitary Service for Individual Lots:

- *Parcel 1-Existing Development:* According to City records, the existing structure on proposed Parcel 1 is currently connected to the combined sewer in NE Graham Street via a lateral located close to the western property line. This location does not conflict with the new property lines proposed through this land division. This property previously had a party sewer with 51 NE Graham Street – the two parcels had a shared lateral located along their shared property line. According to plumbing and connection permits from 2011-2012, 51 NE Graham Street made a separate sanitary connection located within their frontage and 55 NE Graham Street rerouted onsite plumbing so that it did not cross the western property line (PT 2012-142312). Therefore, these properties no longer have nonconforming sewers.
- *Parcel 2-Proposed Development:* Future development on Parcel 2 will be served by a new connection to the combined sewer in NE Graham Street within its frontage

BES determined the applicant's proposal for sanitary service acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal standard and approval criterion.

The sanitary sewer service standards of 33.652 have been verified. This criterion is met.

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

No stormwater tract is proposed; therefore Criterion A is not applicable.

BES reviewed the applicant's proposed land division site plan with conceptual development improvement and utility plan, storm report (Exhibit A.3 & A9) and Simplified Approach Form (Exhibit A.7 & A.12) 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:

- *Parcel 1-Existing Development:* The applicant provided photos of the four existing downspouts on the house to remain (provided in the Incomplete Letter dated 4/25/22). The downspouts on the south side of the house are far from the proposed new property lines and will not be impacted by the proposed land division; therefore, no additional information is required related to these downspouts. The downspout at the northeast corner of the house to remain discharges to the ground surface but does not appear to meet setbacks to the existing house to remain. BES recommends that this downspout be redirected to discharge meeting setbacks from the existing house. The proposed land division does not impact available space for this downspout to meet setbacks from the house and new property line; therefore, BES does not require the discharge to be modified with this land division. However, the downspout at the NW corner of the house does not meet setbacks and, with the proposed land

division, will not have space to meet setback requirements. Prior to preliminary land division approval, the applicant must provide a conceptually approvable way to modify this stormwater disposal location meeting SWMM requirements and setbacks.

BES reviewed a revised land division site and utility plan submitted by the applicant on 06.02.22 (Exhibit A.15 & C.2) and its pictures (Exhibit A.16 & A.20) showing downspouts at the north end of the existing house. The submitted information demonstrates a conceptually approvable way to modify the existing downspout at the NW corner of the house to remain meeting SWMM requirements and setbacks. Prior to final plat approval, the applicant must modify this downspout so that it meets SWMM requirements, to the satisfaction of BES. With the recommended conditions of approval, BES has no further objections to approval of the preliminary land division application.

- *Parcel 2-Proposed Development:* Stormwater runoff from this project must comply with all applicable standards of the SWMM and SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's Simplified Approach stormwater report, Infiltration Testing Results from Hardman Geotechnical Services, Inc. (dated 7/31/21) and Clarification of Infiltration Recommendations from Hardman Geotechnical Services, Inc. (dated 4/25/22). The Infiltration Testing Results report includes Open Pit infiltration test results of >100 inches per hour at a depth of 10.2 ft bgs. The applicant proposes to infiltrate runoff from the development onsite via a 10-ft deep drywell that can meet minimum setbacks as established in the facility design standards and Table 2-1 of the SWMM

BES determined the proposal is acceptable for reviewing the land division against the stormwater management approval criteria and standards. Prior to final plat approval the applicant must modify the stormwater disposal system located at the northwest corner of the existing structure on Parcel 1 according to BES and SWMM requirements. Obtain finalized permits as necessary prior to final plat approval. With the noted condition, this standard and 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.

Portland Bureau of Transportation (PBOT) provided the following Findings: The site is mid-block on a block which meets the recommended spacing standards in the north/south dimension and is close enough on the east/west dimension to not warrant an additional through connection. The block is 580-feet long east/west and 200-ft long north/south. Additional connections are neither required nor desired at this location.

For the reasons described above, this criterion is met.

33.654.120.B & Width & Elements of the right-of-way - See Exhibit E.2

In reviewing this land division, Portland Transportation 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. Portland Bureau of Transportation (PBOT) comments are summarized below:

At this location NE Graham Street is classified as Local Service streets for all transportation modes per the Transportation System Plan (TSP).

Existing Conditions:

- **NE Graham:** NE Graham Street is improved with approximately 31-ft. paved roadway with curbs and sidewalk within a ~51.3 ft. wide right-of-way. The 10-ft. sidewalk corridor consists of a 0.5-ft. curb, 2.5-ft. furnishing zone, 6-ft. sidewalk, and

1-ft. frontage zone.

Standard Improvements:

The City's Pedestrian Design Guide recommends an 11-foot sidewalk corridor on Local Service streets in the R2.5 zone outside of a pedestrian district. The configuration consists of a 0.5-ft curb, 4-ft furnishing zone, 6-ft sidewalk, and 0.5-ft frontage zone. The existing conditions along the site frontage on NE Graham St. do not meet standard requirements for furnishing zone width. The site qualifies for an exemption under Administrative Rule 1.22 "Infill Development on Streets with Existing Sidewalk Corridor." Accordingly, the existing sidewalk corridor configuration will be accepted as the standard sidewalk configuration for the block length. It is anticipated the sidewalk will be damaged or destroyed during construction. The sidewalk will be required to be rebuilt in the existing configuration at the time of building permit. It is anticipated this can be accommodated via a Minor Improvement Permit associated with the building permit for each new house.

PBOT determined with the existing street system will be capable of serving the existing users and proposed new development within this neighborhood. This criterion is met.

33.654.120. H Street Trees

The City Forester reviews this land division proposal for its impact on existing trees, heritage trees, street tree requirements and related mitigation, in accordance with Title 11, Tree Code.

Existing Street Conditions:

NE Graham Street: The site is approximately 50-ft. of street frontage. The right-of-way is improved with pavement, curbs, planting strip and sidewalks. There is one street tree. A field visit by Urban Forestry staff have confirmed the following street tree:

- Five-inch crabapple in fair condition

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 of 1.5 caliper inches and be a species chosen from an approved street tree list. Street tree planting may be exempt under 11.50.060.B when existing above or below utilities prevent planting street trees or when the existing planting strip is less than 3-feet wide. Street trees are required to be planted through building permit

Urban Forestry comments are summarized below:

Street Tree Planting (11.50.060.C) and Street Tree Preservation (11.50.040): One street tree exists along this 50-ft. street frontage that abuts this land division site. A minimum of two street trees would be required along this street frontage. At the time of development, a tree protection plan is required to be provided for the existing street tree being retained.

Prior to the land division there would have been enough planting area for two street trees along this site's frontage. After the proposed lot land division there will only be room for one street trees. A fee of \$675 (1 tree = 1.5 inches x \$450.00 inch) is required for permanent loss of one available planting spaces along this site's frontage.

With the following conditions of approval, Urban Forestry has no objections to this land division proposal. Prior to final plat approval the applicant must a fee in lieu of planting payment for loss of one tree planting space (1.5-inches).

With the conditions noted 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 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 this lot, the applicant should take note of:

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones. These standards apply to Parcel 2

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 R2.5 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 (33.110.220) – 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 ~14.2-ft. from the new side property line and 5-ft. to the proposed new rear lot 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 patio wall /accessory structure that straddles the line between proposed Parcels 1 and 2 must be removed prior to final plat. During a site visit a detached accessory structure (exhibit G.7) was not reflected on the existing conditions survey and must be removed from Parcel 2 prior to final plat approval. Because the structure appears to be less than 200 square feet in size, a demolition permit is not required. The applicant must submit before and after photos to document removal of the structure. The removal of both the patio wall that straddles the lot line and the detached accessory structure on Parcel 2 must be documented by the surveyor on a as-built supplemental survey prior to final plat approval.
- On-site Parking (33.266.110 & 33.266.120): 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 new on-site parking space and curb cut changes, prior to final plat approval. A zoning permit to construct the new on-site parking space is required to be

obtained, completed, inspected, and receive a final approval. As part of the zoning permit to relocate a parking space to Parcel 1 for the existing house, the applicant will be required to close the curb-cut of the existing driveway. A supplemental survey will document the location of the new on-site parking space and driveway and closure of the existing curb-cut prior to final plat approval. To ensure this occurs a condition is necessary.

- **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, Parcel 1 with existing house will no longer meet this standard. Parcel 1 is 2,764 square feet; therefore 1106 square feet of tree canopy area is required using Option A. The applicant narrative and preliminary conceptual improvement plan show they intend to plant trees on Parcel 1 to meet this prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 with the existing house 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 plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
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.

- **Fire Bureau Requirements (Title 31 & Fire Bureau Policy):** The Fire Bureau Code requires fire apparatus access roads to be able to extend to within 150 feet of all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building. Where a building is protected with an approved fire sprinkler system, an exception to the maximum distance is increased to 250 feet. If structures on Parcel 2 are greater than 150-ft. from the public right-of-way, NE Graham Street, then Fire Bureau will require residential sprinklers for the future development on Parcel 2. An Acknowledgement of Special Land Use Conditions for residential fire sprinklers is required must be submitted

prior to final plat approval and noted on the final plat survey. The applicant must demonstrate at the time of final plat application how Fire Apparatus Access for Fire Bureau requirements will be met for future development on Parcel 2, either demonstrate 150-ft. distance from NE Graham is met or utilize the exception and install fire sprinkler system in the future development. These requirements are based on the technical standards of Title 31 and the Portland Fire Code. A condition of approval is necessary, to ensure Fire Bureau requirements will be met.

- **Driveway and Curb Cuts (Title 17- Section 17.28):** Curb cuts and driveway construction must meet the requirements in Title 17.28.110 and TRN 10.40. The driveway requirements will be enforced during the review of building permits. The proposal is to close the existing driveway approach and relocated it west to be contained on Parcel 1. The proposed driveway is dimensioned as 9-ft wide, which is the minimum driveway width. No driveway is proposed for Parcel 2. As proposed, the driveway meets the requirements 17.28.110 and TRN 10.40.

CONCLUSIONS

The applicant has proposed a two-parcel partition with a Flag Lot, Parcel 2, will be available for new Residential development and the existing house being retained on Parcel 1, as shown on the attached preliminary land division site plan (Exhibit C.1 & C.2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

The existing house will be retained on the site. To ensure the existing house on its new lot remains in compliance with Title 33 development standards, trees will be planted on the new lot area to meet tree density requirements.

To make the site suitable for development the applicant has proposed to remove accessory development area, specifically the patio area (includes a wall) that straddles the new proposed lot line and the detached accessory prior to final plat approval. The Site Development Section of BDS requires an existing on-site sanitary (septic/cesspool) system on the site to be located and decommissioned to make the site suitable for development.

An 11-inch Fruit tree (T3) and an 11-inch American Pussy Willow tree (T4) are being preserved on Parcel 2 to meet the tree preservation standard. To ensure that future owners are aware of tree preservation for Parcel 2, an Acknowledgement of Tree Preservation Conditions is required prior to final plat approval.

To ensure that Fire Bureau requirements for Fire apparatus access is met for the future development on Parcel 2, Flag Lot, the applicant will need to demonstrate how this Fire Bureau requirement will be met prior to final plat approval. The applicant may utilize the exception by installing a fire sprinkler system in the future development on Parcel 2 to meet this Fire Bureau requirement. To ensure future owners are aware of this Fire Bureau requirement an Acknowledgement of Special Land Use Conditions for fire sprinkler system must be noted on the final plat survey and legal document submitted prior to final plat approval.

Urban Forestry requires the applicant must make a payment for loss of one available street tree planting space along this site's frontage due to the land division.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two-parcel partition, that will result in one Flag Lot, available for future residential development, and one standard lot containing the existing house to be retained, as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. An additional supplemental plan shall be submitted with the final plat survey for Land Use Review, Bureau of Environmental Services (BES), Site Development Section of BDS, 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,
- Documentation of removal of detached uncovered accessory structure and patio area (wall) being removed from Parcel 2.
- Location of retrofitted stormwater system for the existing house on Parcel 1 to show BES requirements being met.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. 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 Condition C.6 & C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “An Acknowledgement of Special Land Use Conditions (feature name i.e. tree preservation, Fire Sprinklers) has been recorded as document no. _____, Multnomah County Deed Records.”

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

Utilities

1. The applicant must remove the patio area/patio wall that straddles the future lot line and remove the detached accessory structure on Parcel 2. If it is determined the detached accessory structure is greater 200 s.f. and more than 10-ft. tall a building permit will be required to remove it and the demolition permit must receive a final inspection prior to final plat approval. If the detached accessory structure is less than 200 s.f. and less than 10-ft. tall, then the applicant must submit before and after photos of the removal (with the same perspective). Prior to removal of these structures, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition D.1. The surveyor must show on the as-built supplemental survey the permanent removal of both these items from future Parcel 2.
2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system/cesspool on the site.
3. A parking space shall be installed on Parcel 1 in conformance with the applicable requirements of the Portland Zoning Code. 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, the existing driveway must be removed, and curb-cut closed as part of this permit. 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.3 of LU 21-100807 LDP.* The new parking space must also be shown on the supplemental plan.
4. 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.

5. The applicant must meet the requirements of Bureau of Environmental Services (BES) for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval. This condition must be met to the satisfaction BES.
6. 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 residential development 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.

Required Legal Documents

7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 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.

Other requirements

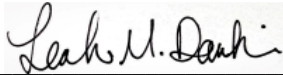
8. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 inches of trees, for the loss of one available street tree planting space. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Development on Parcel 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.2 & C.3) and the applicant's arborist report (Exhibit A.21). Specifically, trees identified as T3-11-inch Fruit tree and T4-11-inch American Pussy Willow tree are required to be preserved, with the root protection zones indicated per the Arborist Report and shown on Exhibit C.2 & C.3. Tree protection fencing is required along the root protection zone of the trees to be preserved. The fence must be 6-foot-high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.
2. The applicant must meet the Fire Bureau requirements for addressing. Flag lots shall have their address(es) permanently displayed within 5 feet of the flagpole connection to the public way. 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.
3. If required, the applicant will be required to meet any requirements identified through a Fire Bureau Requirements/Fire Bureau Appeal as determined by Condition C.6 noted above, or if exception utilized then install fire suppression/residential sprinklers in the new residential development on Parcel 2. Please refer to the final plat approval report for details on whether or not this requirement applies.

4. A curb-cut and driveway for vehicle access is not allowed within/along the 12-ft. street frontage of 12-ft. access pole of Parcel 2, Flag Lot.

Staff Planner: Leah Dawkins

Decision rendered by:  **on November 16, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) November 18, 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 28, 2021, and was determined to be complete on April 25, 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 28, 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 180 days (Exhibits A.17 and A.23). Unless further extended by the applicant, **the 120 days will expire on: February 19, 2023.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that only digital copies of material are available. Additional information about the City of Portland and city bureaus is available at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available <https://www.portland.gov/code/33>. Copies of all information in the file can be obtained for a fee equal to the cost of services.

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. Narrative addressing approval criteria
 - 2. Deed information
 - 3. Infiltration Testing Results report by Hardman Geotechnical Services Inc. (HGSI) dated July 31, 2022
 - 4. Fire Flow Information
 - 5. Preliminary Land Division site plan survey
 - 6. Original plan sheets (1-5) submitted
 - 7. Simplified Approach Form for stormwater management
 - 8. Applicant's response to incomplete letter dated 04.25.22
 - 9. Clarification of Infiltration report by HGSI dated 04.25.222 submitted 04.25.22
 - 10. Revised Preliminary Land Division Site plan submitted 04.25.22
 - 11. Revised preliminary clearing, grading and erosion control plan submitted 04.25.22
 - 12. Revised Simplified Approach Form submitted 04.25.22
 - 13. Revised Existing Conditions Survey submitted 04.25.22
 - 14. E-mail from applicant regarding downspouts for existing house dated 06.02.22
 - 15. Revised Preliminary Site, conceptual development and utility plan submitted 06.02.22
 - 16. Picture of house and downspouts submitted by apl on 06.02.22
 - 17. Extension to state 120-day timeline
 - 18. Revised preliminary site and utility plan submitted 06.15.22
 - 19. Floor Area calculations for future development submitted 06.15.22
 - 20. E-mail communication between applicant and Bureau of Environmental Services
 - 21. Springwater Arboriculture LLC -Arborist Report/Tree Plan
 - 22. E-mail dated 06.28.22 from owner Daniel Silvey requesting to place decision on hold until Historic Design review case is approvable.
 - 23. Extension Two to State 120-Day Timeline
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Land Division Site Plan survey (attached)
 - 2. Preliminary Land Division Site Plan with conceptual improvements, utility, and tree preservation site plan (attached)
 - 3. Existing Conditions Survey, Tree Survey & Tree Preservation
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - a. BES Land Use Response Addendum dated 06.17.22
 - 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
 - a. Revised Urban Forestry Division memo
 7. Life Safety Section of BDS
- F. Correspondence: None
- G. Other:
1. Original LU Application & Expedited Land Division Acknowledgement form signed
 2. Incomplete Letter dated 11.18.21
 3. March 25, 2022 Warning Letter
 4. Outstanding Issues memo dated 06.06.2022
 5. Urban Forestry Response to Consultation on English Walnut tree
 6. Outstanding Issues memo dated 06.17.22
 7. Site Visit Photos
 8. City E-mail dated 06.28.22 to owner and applicant

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).