



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

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Date: March 23, 2022
To: Interested Person
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 21-062116 LDP AD

GENERAL INFORMATION

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

Owners: Brent and Jennifer Kettner
4125 SE 102nd Ave Portland, OR 97266
jkettner@proplumbnw.com 503-867-5042

Site Address: 4125 SE 102nd Ave

Legal Description: LOT 7&8 TL 800, RIZA PARK
Quarter Section: 3440
Tax Account No.: R712200150
State ID No.: 1S2E09DD 00800

Neighborhood: Lents, contact at lentsneighborhood@gmail.com, & 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: Residential 5,000 (R5)
Overlay Zone: Alternative Design Density ("a")

Case Types: Land Division – Partition (LDP) and Adjustment (AD)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to divide this 18,325 square foot lot into 2 parcels: Parcel 1 is proposed to be 8,475 square foot flag lot (the flag portion will be 7,227 square feet) and will be available for residential development. Parcel 2 is proposed to be 9,849 and will contain the existing

house and garage to remain. Four off-site trees near Parcel 1's property line will be protected as shown on the proposed site plan (Exhibit C1 and C3). The applicant also proposes an Adjustment to the maximum lot size for Parcel 2. Zoning Code Section 33.610.200.C, Table 610-2 allows R5 lots to be a maximum of 8,500 square feet. The applicant requests to exceed this standard with a 9,849 square foot lot.

In order to show feasibility of providing services and other criteria, the applicant has provided a conceptual development plan showing a single dwelling residence on Parcel 1 with on-site parking accessed via a driveway on SE 102nd Avenue. Please note that future development will be subject to the zoning code in effect at the time of permit review.

Relevant Land Division Approval Criteria: In order to be approved, this land division 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.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) The proposal includes a concurrent land use review (Adjustment) assigned to a Type II procedure (see 33.660.110).

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

Relevant Adjustment Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are: 33.805.040.A-F, Approval Criteria for Adjustments. 33.805.040.A,B, and E apply to this project.

FACTS

Site and Vicinity: The subject site is situated in a R5 residential area, and contains almost all single dwelling homes. There are some high-density single dwelling residential, lower density multi-family residential zoning districts, and some commercial zoning along SE Holgate Boulevard south of the site. There is some industrially zoned property approximately 730 feet north and northwest of the site along SE Powell Boulevard. I-205 is located approximately 1,550 feet to the west, Ed Benedict Park is located approximately 750 feet to the north, and Early Boyles Park is located approximately 1/3 of a mile to the east.

Infrastructure:

- **Streets** – The site has approximately 60 feet of frontage on SE 102nd Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, SE 102nd Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 530 feet from the site at SE Holgate Boulevard via Bus 35.

SE 102nd Avenue has a 28-foot curb to curb paved surface within a 50-foot right-of-way with parking on both sides. Along the 60-foot wide site frontage the pedestrian corridor includes a 4.5-foot wide planter area, curb, 5-foot sidewalk and a 1-foot wide buffer at the back of the sidewalk (4.5-5-1 configuration).

- **Water Service** – There is an existing 12-inch water main in SE 102nd Avenue. The existing house is served by a 3/4-inch metered service from this main.
- **Fire Hydrants** The nearest fire hydrant is located approximately 70 feet northeast of the site at 4112 SE 102nd Avenue with a hydrant flow of 800 gpm with a minimum pressure of 20 psi. A second fire hydrant is located approximately 430 feet southeast on

the corner in front of 4213 SE 103rd Avenue with a hydrant flow of 2,100 gpm with a minimum pressure of 20 psi. The combined flow is 2,800 gpm.

- **Sanitary Service** - There is an existing 8-inch PVC sanitary sewer line in SE 102nd Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: Residential 5,000 (R5)- The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

Johnson Creek Plan District:

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 enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions.

Land Use History: City records indicate there are one prior review for this site.

- **18 121000 PLA:** A property line adjustment that created the current land division 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 **January 20, 2022**. No written responses have been received from 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:
B	33.630 – Trees	No trees in excess of 6 inches in diameter are located fully or partially on the site, or the trees are nuisance species or exempt due to poor condition.
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.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	No pedestrian connections are proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.
	33.655 - School District Enrollment Capacity	The proposal is for less than 11 lots or is not in the David Douglas School District.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's survey, the site area is 18,324 square feet. The maximum density in the R5 zone is one unit per 5,000 square 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 3 units and a minimum required density of 3 units.

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore, in this case the minimum density is reduced to 2 units.

The applicant is proposing 2 single dwelling parcels/lots. The density standards are therefore met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
R5 Zone	3,000	8,500	36	50	30	40	40
Parcel 1	7,227 (w/o pole) 8,475 sf (w/pole)					72.28	100
Parcel 2	9,849		48.30	203.98	48.30		

* 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.

Please refer to 33.805 Section of this decision for findings that show approval of an Adjustment to allow Parcel 2 to be 1,349 square feet larger than the maximum lot size allowed in Table 610-2, which is 8,500 square feet.

Flag Lots

When allowed

In this case the applicant is proposing 2 parcels, only one of which is a flag lot. The existing dwelling unit has been on the property for at least 5-years and is 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.

Dimensions

The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 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.

In this case, the flag portion of Parcel 1 will provide off street parking access for both the parcels. The shared vehicle access minimizes the need for additional curb-cuts along the street and the impervious area resulting from paved surfaces for vehicle access. A reciprocal access easement will be placed over the entirety of the Parcel 1's pole and a portion of Parcel 2 to allow shared access.

Parcel 1 has met the thresholds for when a flag lot is allowed. Therefore, Parcel 1 is allowed.

This criterion is met, provided the Adjustment related to maximum lot size addressed below is approved.

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.

The applicant's arborist report has identified 4 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 8-foot root protection zones for the Leland Cypresses to the north of the site and between an 11 and 18.5-foot root protection zone for the Douglas Firs to the west of the site, which is reflected on the tree preservation plan (Exhibit C1 and C3). A city tree inspector visited the site and agrees that the tree protection fence proposed 6 feet inside Parcel 1 is adequate to preserve the 2 Douglas Firs. With a condition that tree protection for the off-site trees be implemented at the time of development of Parcel 1, 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. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

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

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

- A Reciprocal Access Easement is proposed to allow shared use of a driveway that will straddle proposed lot lines;

This existing curb cut to remain means that both Parcel 1 and Parcel 2 will need to use each others' property for driveway purposes (Exhibit C1 and C3). As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

"A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

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

Findings: The transportation system must be capable of supporting the proposed development in addition to the existing uses in the area.

Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access

restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

Findings: The applicant provided a narrative addressing each evaluation factor. Staff generally concurs with the applicant's findings. The existing roadway and sidewalk networks are largely complete in this area. Connectivity meets City standards for the east/west block length but not for the north/south block length. Interstate 205 is a barrier to connectivity, with the only streets crossing the interstate being collectors. Most area streets are paved. Some area roadways contain sidewalks, though some do not. The frontage of the subject lot has a paved street with curbs and a separated sidewalk facility.

The area is served by multiple transit lines and multiple bicycle routes. Given the connectivity issues presented by I-205, bus service is only available on area collectors. The closest bus service is approximately 800-feet south of the site on SE Holgate Blvd. Tri-Met service route 17 provides daily service with weekday peak hour headwinds of 20 minutes or less. Route 17 travels eastward to SE 134th Avenue and westward downtown Portland before turning northeast to the Lloyd District and northeast Portland. Tri-met service route 9 operates about ¼ of a mile north of the site on SE Powell Boulevard. Route 9 is a frequent service route with buses coming every 20 minutes or less most of the day, every day. The 9 provides service eastward to the Gresham Central Transit Center and westward to downtown Portland. For bicycle travel, there are striped bicycle lanes on both SE Holgate Blvd. and SE Powell Blvd. For a lower stress cycle experience, cyclists can access the neighborhood greenway system on SE 102nd Avenue north of the subject site. Neighborhood greenways are Portland's low-traffic and low-speed streets where we give priority to people walking, bicycling, and rolling. Both SE 100th Avenue and SE Bush Street can be accessed via multi-use paths through Ed Benedict Park just south of SE Powell Boulevard. From these neighborhood greenways, the larger system of lower stress routes and off-street paths, such as the I-205 path, can be accessed to carry cyclists city wide.

Based on information in the City's database on Portland Traffic Deaths and Injuries since 2008, there have been no fatal or injury accidents on SE 102nd Avenue between SE Powell Boulevard. and SE Holgate Boulevard.

On-site parking is proposed for both lots via a shared driveway at the same location as the existing driveway. Sharing a single curb cut will preserve as much on street parking as possible while still providing on-site 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 existing frontage improvements meet City standards as explained below. Any sidewalk panels which are damaged or destroyed during construction will be required to be replaced.

PBOT has reviewed and concurs with the information supplied and available evidence. No mitigation is necessary for the transportation system to be capable of supporting the proposed development in addition to the existing uses in the area. The existing frontage improvements meet City standards as explained below. Any sidewalk panels which are damaged or destroyed during construction will be required to be replaced. 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

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report.

The Fire Bureau has reviewed the fire flow and determined that the second fire hydrant is not within 600 feet of all portions of Parcel 1, so it cannot be considered for development on that lot. Also, the other fire hydrant does not provide enough capacity on its own for fire protection. However, if the structures built on Parcel 1 are fitted with an automatic sprinkler system, a reduction in fire flow of 50% is allowed. A condition has been added that structures on Parcel 1 must be fitted with an automatic sprinkler system. With this condition, adequate fire suppression will be provided.

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 2 of this report.

BES reviewed the proposed improvement and utility plan and the response is summarized below:

The existing sewer service for Parcel 2 is within Parcel 2's boundary. Parcel 1 can obtain sewer service within its frontage. BES has determined the applicant's proposal for sanitary service acceptable for the purpose of reviewing the preliminary land division application against the sanitary sewer disposal standard and approval criterion.

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

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 & E.5

BES reviewed the applicant's proposed improvement and utility plan and infiltration report against the stormwater management approval criteria and standards, and determined that a stormwater management system can be designed that will provide adequate capacity and disposal for the expected amount of stormwater, as summarized below:

No stormwater tract is proposed or required.

The applicant has proposed the following stormwater management methods:

- **Public Street Improvements:**
There are no public right-of-way improvements that will trigger BES public stormwater drainage improvements.
- **Parcel 1:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywell.
- **Parcel 2 (the lot with the existing house):** Per the submitted plans stormwater runoff from the existing structures discharge to existing drywells. This location appears to meet setbacks to the proposed new property line(s).

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

33.654.110.B.1 Through streets and pedestrian connections

The site is mid-block on an approximately 1,250 foot long block; this substantially exceeds the City's recommended block length. The site's location roughly mid-block suggests an opportunity to evaluate an east/west through connection. New local Service Streets in the R5 zone have a standard width of 58-feet.

The subject site has 60-feet of frontage. Requiring a through street would require the majority of the lot, including the existing house, be devoted to providing a street. When through streets are not feasible, pedestrian connections must be evaluated. The standard pedestrian connection width is 15-feet. Based on the existing conditions survey, there is 18-foot of width between the existing house and the north property line. While this would be adequate width to accommodate a pedestrian connection, it could not also accommodate a driveway. Additionally, bisecting the irregularly shaped lot with a Pedestrian Connection would mean the flag pole portion of the proposed flag lot would become a pedestrian only facility. There would be no vehicular access possible to proposed Parcel 1. At the date this application was made, vehicular parking was required in the R5 zone. The existing development patterns and proposed retention of the existing house make providing a pedestrian connection infeasible. In addition to these reasons, a 15-foot wide pedestrian connection the full length of the site would be 3,059.7 square feet, which is 16.6% of the subject site. This amount of dedication would be out of proportion to the impact of the single proposed lot. A through connection is not required. 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.

The existing conditions along the site frontage on SE 102nd Ave. do not meet standard requirements for sidewalk 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. Therefore, PBOT has indicated that the existing street is currently improved in a manner that is sufficient to serve the expected users. PBOT has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

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

Two street trees currently exist. One street tree is required for each 25 linear feet of right-of-way, prior to land division there is room for 2 street trees. After the proposed lot division, there will only be room for 1 tree. A fee of \$675 (\$450 per inch x 1.5" required size) is required for the permanent loss of available planting space. This fee has been incorporated into the conditions of approval.

With the condition of approval described above, these criteria are met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. At this time a 10 foot wide public utility easement is shown at the rear of the lots. This criterion is met.

ADJUSTMENT REVIEW**33.805.010 Purpose of Adjustment Reviews**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue providing certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

The applicant requests one Adjustment to increase the maximum lot area in the R5 zone for proposed Parcel 2 from 8,500 square feet to 9,849 square feet. The purpose of the zoning standards related to lot dimensions in single-dwelling residential zones is found in 33.610.200.A and states:

The lot dimension regulations ensure that:

- *Each lot has enough room for a reasonably-sized house and garage;*
- *Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;*
- *Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;*
- *Each lot has room for at least a small, private outdoor area;*
- *Lots are compatible with existing lots;*
- *Lots are wide enough to allow development to orient toward the street;*
- *Lots don't narrow to an unbuildable width close to the street*
- *Each lot has adequate access from the street;*
- *Each lot has access for utilities and services; and*
- *Lots are not landlocked; and*
- *Lots are regularly shaped.*

Findings: The proposal to exceed the maximum lot area by 1,349 square feet or 15.8% equally or better meets the purpose of the lot dimension requirements. The proposed Parcel 2 has enough room for a reasonably-sized house and garage. The proposed Parcel 2 maintains a uniform shape and development meets setback and building coverage requirements, including an adequately sized outdoor area. The proposed Parcel 2 will not seem large enough to divide as it is only 48.3 feet wide the minimum lot width is 36-feet wide. If it does divide in the future it will not create a site that divided above the maximum density as the Adjustment to is prevent having to divide to its maximum density of 3 lots.

Lots in the area (within 500 feet of the site) range from approximately 4,500 square feet to 12,000 square feet. The most common lots sizes close by are between approximately 7,000

square feet and 10,000 square feet. Proposed Parcel 2 at 9,849 square feet will not be larger than the largest lots in the vicinity or smaller than the smallest lots in the vicinity; therefore compatibility with surrounding lots is maintained. Development on Parcel 2 will continue to provide adequate access from the street. The front lot line width is maintained from the street to the rear of the lot. The lot will not be landlocked and will maintain access for utilities and services. Parcel 2 will be regularly shaped and Parcel 1 will have lot lines that are at 90-degree angles. Access to utilities will be maintained. The proposed lot lines will not make it difficult to delineate property boundaries or apply development standards.

Based on the information above, this criterion is met.

B. If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Because the subject site is in a single-dwelling residential zone, the applicant must demonstrate that the proposal will not detract from the livability or appearance of the surrounding residential area. The residential area considered for evaluation is the area approximately 500 feet surrounding the site. Increasing the area of Parcel 2 by 1,349 square feet over the 8,500 square foot maximum lot size will not detract from the livability or appearance of the residential area. This is because there are a variety of lot sizes in the area with lots both smaller and larger than the proposed Parcel 2. Moreover, there is already an existing house to remain on Parcel 2, and the Adjustment is to allow the existing structures on Parcel 2 to remain. Also, as discussed in Criterion A, the site will maintain adequate space to meet development standards and the Adjustment will not allow the site to exceed density requirements. Parcel 2 will be regularly shaped and Parcel 1 will have lot lines that are at 90-degree angles. The proposed lot lines will not make it difficult to delineate property boundaries or apply development standards. The parcels will continue to have adequate access from the street and space for utility connections. Therefore, the livability and appearance of the surrounding residential area will be maintained.

Based on the information above, Criterion B is met.

C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is requested, so this criterion does not apply.

D. City-designated scenic resources and historic resources are preserved; and

Findings: There are no City-designated scenic or historic resources on the site. Therefore, this criterion is not applicable.

E. Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not within an environmental zone, therefore this criterion is not applicable.

DEVELOPMENT STANDARDS

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 requirements of Title 11 can be met, and that all development standards 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:

- Flag Lots-- Additional development standards apply to flag lots in the RF-R2.5 zone, including, but not limited to, setbacks, landscaping, and building coverage. These standards will apply to Parcel 1 based on the code in effect at the time of the building permit.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 2. 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.)

Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 5.9, the garage under inspection will be 16.9 feet from the new property line. Therefore, the required setbacks are being met. To ensure this and other standards 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.

Proposed Paving on Parcels 1 and 2:

It appears that the applicant is proposing more pavement on Parcel 2 than what is currently proposed with the open zoning permit 21-070186-ZP (Exhibit A12). This decision does not approve further paving. To propose more paving on of Parcels 1 and 2, the applicant must obtain a revised zoning permit. To ensure that all site improvements continue to meet standards at the time of final plat, the applicant must final any open zoning permits. In addition, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing buildings and paving relative to the adjacent new lot lines.

Other Open Permits on Parcel 2:

There are three open permits on Parcel 2. There is an open building permit, an open plumbing permit, and an open electrical permit related to the detached accessory structure on Parcel 2, 17-159522-RS, 21-001521-PT, 21-108001-ET. To ensure that all site improvements continue to meet standards at the time of final plat, the applicant must final any open permits that could be impacted by the land division. Site Development recommends a condition that the open building permit (17-159522 RS) for the accessory structure be finalized 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 partially met on the site. Due to the land division, and associated tree removal, Parcel 2 with

existing house will move further out of conformance with this standard as the only tree on the site will be removed. Prior to final plat approval, the applicant must meet this requirement by either planting 1 small tree on Parcel 2 or making the equivalent payment into the City Tree Preservation and Planting Fund. Tree planting must be documented with a finalized Zoning Permit.

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

OTHER TECHNICAL REQUIREMENTS

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

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

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant flow from the nearest fire hydrant; recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 1; and fire apparatus access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. The applicant has proposed to install fire sprinklers in the new home on Parcel 1 to address fire access (structure over 150 feet from the fire access), and fire flow (50% reduction allowed). A condition has been added to address this requirement.

CONCLUSIONS

The applicant has proposed a 2-parcel partition and requested maximum lot size Adjustment to allow Parcel 2 to be 9,849 square feet (Exhibit C1, C2, and C3). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: flag pole reciprocal access easement, protection of off-site trees, and adequate fire suppression.

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

ADMINISTRATIVE DECISION

Approval of an Adjustment to increase the maximum lot size from 8,500 square feet to 9,849 square feet for Parcel 2, and

Approval of a Preliminary Plan for a 2-parcel partition, that will result in 1 standard oversized lot approved with an Adjustment and one Flag Lot.

These approvals are granted for the proposal as illustrated with Exhibits A5 and C1 – C3, subject to the following conditions:

A. Supplemental Plan. An additional supplemental plan shall be submitted with the final plat survey for Land Use review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the following:

- The surveyed location of any buildings or accessory structures on the site at the time of the final plat application;
- The surveyed location of any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. A Reciprocal Access Easement shall be shown and labeled on the final plat, that will be centered on the southern 10 feet of Parcel 1, except for the driveway portion Parcel 1 needs on Parcel 2 to use the shared existing access apron, as shown on Exhibit C4. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C5 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:

Existing Development

1. The applicant must obtain a finalized status on building permit 17-159522 RS (currently under inspection) for the detached garage and living area to remain on Parcel 2 and reflect all associated improvements on the supplemental survey required by Condition A.
2. The applicant must obtain a finalized status for any issued zoning permit on Parcels 1 and 2 and reflect all associated improvements on the supplemental survey required by Condition A. Currently the open permit, 21-070186-ZP, proposes less paving than what is shown on exhibits C1 and C3. Additional paving is not approved with this decision.
3. The applicant must plant 1 small tree on Parcel 2 with the existing house or make the equivalent payment into the City Tree Preservation and Planting Fund to not move further out of conformance with the tree density standard of 11.50.050. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Required Legal Documents

4. A Maintenance Agreement shall be executed for the Reciprocal Access as described in Condition B1 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.
5. The applicant shall meet Fire Bureau requirements to execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 1 to contain internal fire suppression sprinklers, to satisfy fire access and fire flow requirements. The acknowledgement shall be referenced on and recorded with the final plat.

Other Requirements

6. 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. 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. At the time of construction of new residential development on Parcel 1, off-site trees must be protected in conformance with the Tree Preservation Plan (Exhibits C1 and C3) and the applicant's arborist report (Exhibit A5). Specifically, off-site trees numbered 4100, 4024, 4101 A, and 4101 B are required to be protected, with the root protection zones indicated on Exhibits C1 and C3. 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.
2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 1, the flag lot. The location of the sign must be shown on the building permit.
3. The applicant will be required to install residential fire sprinklers for the new house on Parcel 1 to the satisfaction of the Fire Bureau.
4. Vehicle access to Parcel 1 and 2 must be along the approved reciprocal access easement on Parcels 1 and 2 as shown on the final plat. A separate driveway to Parcel 2 is not allowed.

Staff Planner: Clare L. Fuchs**Decision rendered by:**  **on March 18, 2022**

By authority of the Director of the Bureau of Development Services

Decision mailed March 23, 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 June 30, 2021, and was determined to be complete on December 27, 2021.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on June 30, 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 28 days (Exhibit A11). Unless further extended by the applicant, **the 120 days will expire on: May 24, 2022.**

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on April 6, 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.**

Recording concurrent approvals.

If the preliminary land division approval also contains approval of other land use decisions (examples include adjustments, conditional uses, and environmental reviews), these other approvals will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **April 6, 2022** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an Adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment, This approval expires if:

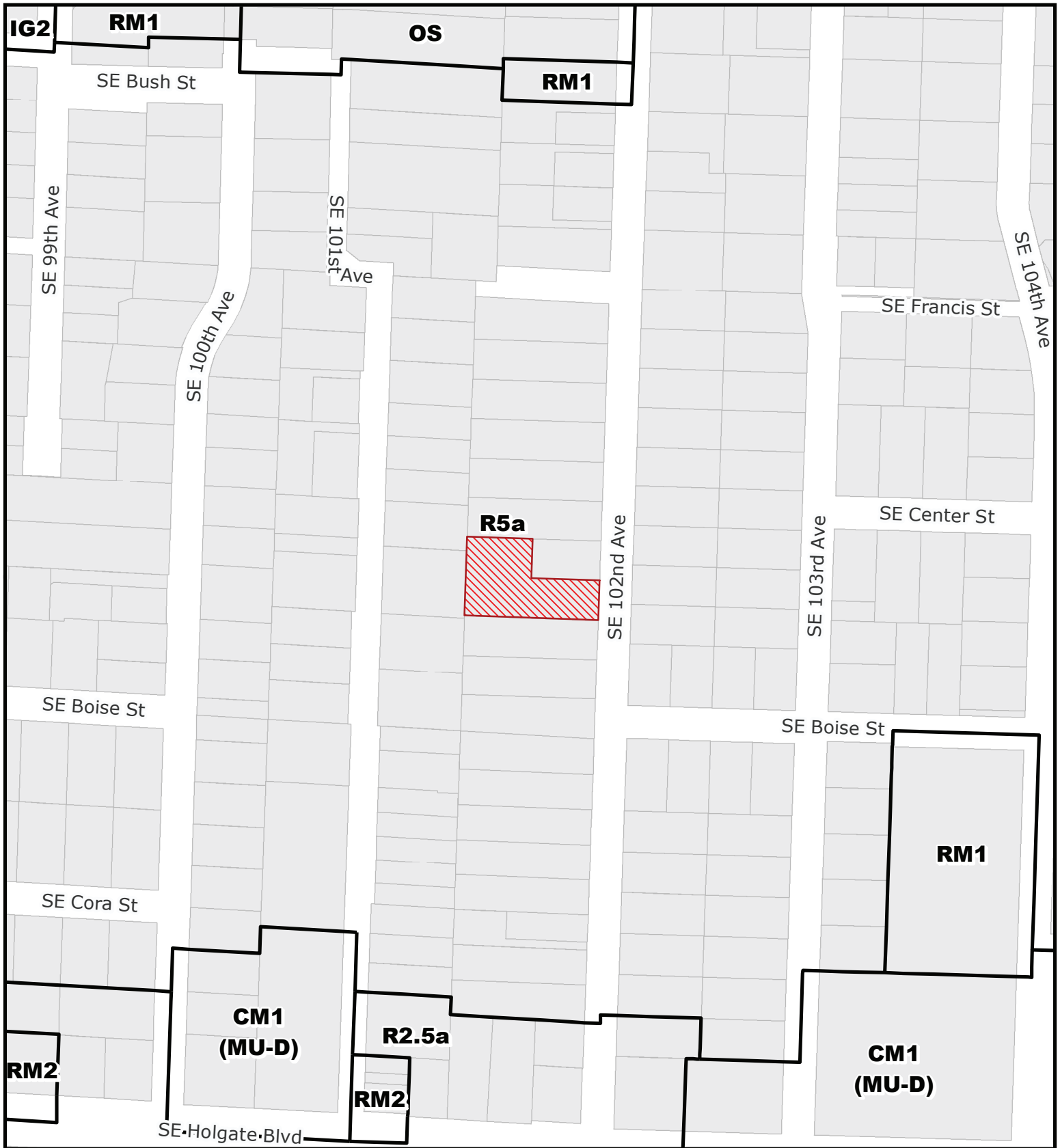
- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. 2018 PLA Documents
 - 2. Narrative
 - 3. Fire Flow Data
 - 4. Infiltration Report
 - 5. Arborist Report
 - 6. Resubmittal Memo
 - 7. Existing Conditions
 - 8. Preliminary Grading Plan
 - 9. Hydrant Locations
 - 10. Utility Plan
 - 11. 120 Day Extensions
 - 12. 21-070186 ZP Site Plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Full Size Site and Tree Preservation Plan
 - 2. Preliminary Plat
 - 3. Reduced Size Site and Tree Preservation Plan (attached)
- 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: (None)
- G. Other:
 - 1. Original LU Application

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



ZONING

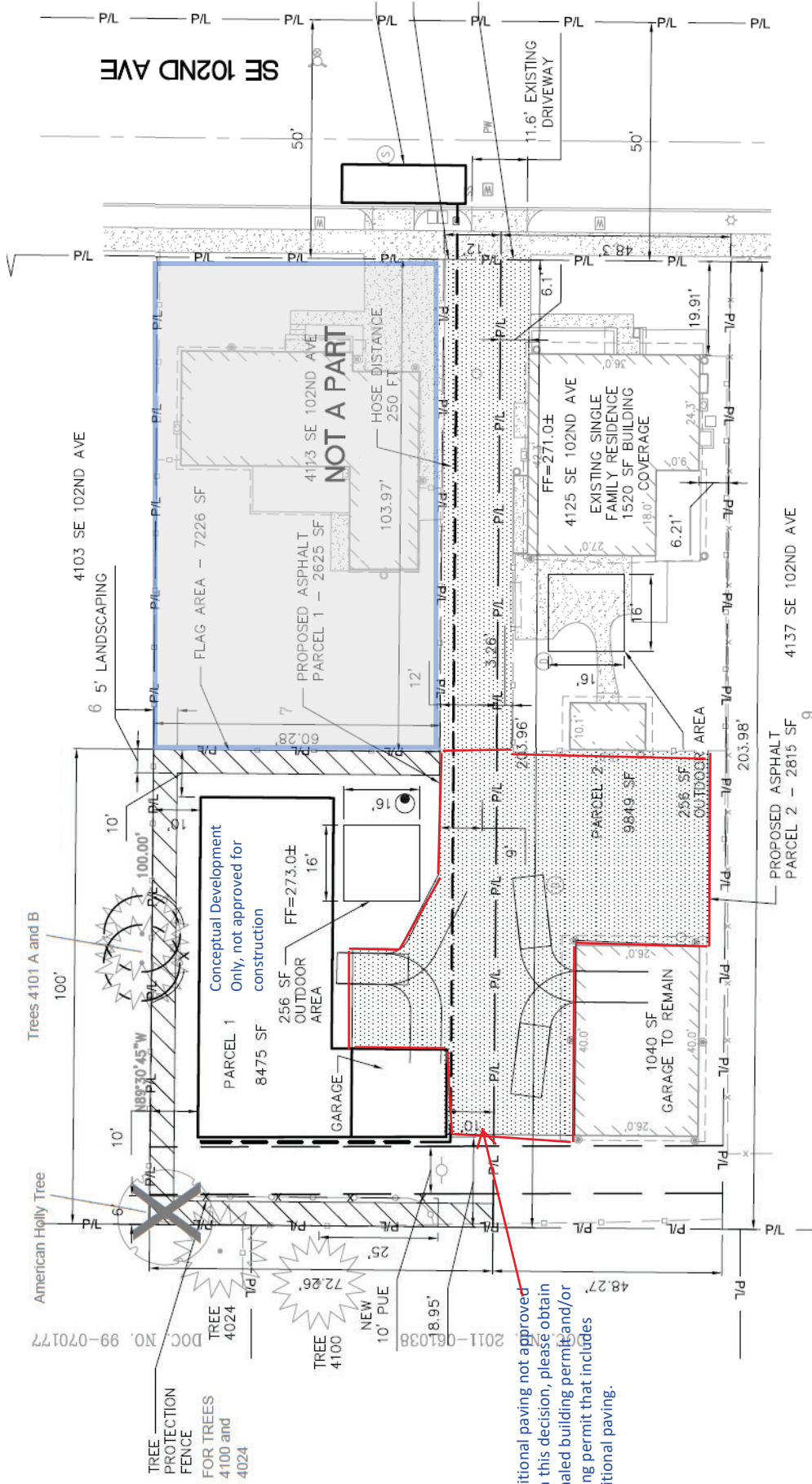


For Zoning Code in effect
August 1, 2020 - July 31, 2021

JOHNSON CREEK PLAN DISTRICT



File No.	LU 21 - 062116 LDP AD
1/4 Section	3440
Scale	1 inch = 200 feet
State ID	1S2E09DD 800
Exhibit	B Jun 30, 2021



Additional paving not approved with this decision, please obtain a finalized building permit and/or zoning permit that includes additional paving.

House and Property that says, "NOT A PART" is not a part of this application