



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

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Date: August 9, 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 21-091619 LDP

GENERAL INFORMATION

Applicant: Alex Kaydalin
Locus Custom Homes
12981 SE Meadehill Avenue
Happy Valley, OR 97086
(503) 888-0594 | alexkaydalin@gmail.com

Owner: Minh Bui
11223 SE Malden Street
Portland, OR 97266-8014

Site Address: SW Dickinson Lane

Legal Description: LOT 17, DICKINSON SUB
Tax Account No.: R209000650
State ID No.: 1S1E33CB 01800
Quarter Section: 4227
Neighborhood: Arnold Creek, contact Nancy Mattson at board@arnoldcreek.org
Business District: None
District Coalition: Office of Community & Civic Life, contact Leah Fisher at leah.fisher@portlandoregon.gov
Plan District: None
Other Designations: Potential Landslide Hazard
Zoning: Residential 10,000 w/ Environmental conservation (c) and protection (p) Overlay

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

Proposal:

The applicant is proposing to partition the subject property into 2 parcels and an environmental resource tract of approximately 10,309 (Parcel 1), 9,780 (Parcel 2), and 21,046 (Tract A) square feet in size. The site is void of any existing development or improvements.

Sanitary sewer and water service is proposed from mains in SW Dickinson Lane. Stormwater management associated with new homes is proposed via planters that discharge to outfalls within Tract A. The one non-exempt tree located outside of the environmental zone, a 14-inch Bigleaf maple, is proposed to be preserved for compliance with Tree Preservation Standards.

A geotechnical report has been provided to address suitability for development in accordance with the Potential Landslide Hazard Overlay. The environmental standards for land divisions (33.430.160) are required to be addressed based on the presence of environmental conservation and protection overlays, most notably requiring the resource area of the environmental zone to be placed within a dedicated tract.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) two or three lots are proposed; and (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 3 units of land (2 parcels and 1 tract). 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 located on the south side of SW Dickinson Lane approximately 250-feet east of the intersection with SW Dickinson Court. The site is void of any improvements and moderately slopes down from the street. An unidentified drainageway runs along the southern property line. The surrounding vicinity is primarily comprised of single-family development on larger lots.

Infrastructure:

- **Streets** – The site has approximately 140-feet of frontage on SW Dickinson Lane. At this location, SW Dickinson Lane is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). The nearest transit stop is about a ¾ mile walk east of the site at the intersection of SW Stephenson Street and SW Boones Ferry Road via Tri-Met Bus #38.

Along the site’s frontage, SW Dickinson Lane is improved with a paved roadway and curb within a 50-foot-wide right-of-way. There is approximately 13-feet of right-of-way from the face of curb to the front property line.

- **Water Service** – There is an existing 4-inch CI water main in SW Dickinson Lane.
- **Fire Hydrants** The nearest fire hydrant is located on SW Dickinson Lane approximately 29-feet east of the site with a hydrant flow of 1,200 gpm with a minimum pressure of 20 psi. A second fire hydrant is located approximately 325-feet from the site at the intersection of SW Dickinson Court and SW Stephenson Street with a hydrant flow of 900 gpm with a minimum pressure of 20 psi. The combined flow is 1,700 gpm.

- **Sanitary Service** - There is an existing Public 8-inch PVC sanitary sewer in SW Dickinson Lane (BES as-built # 6520) and a Public 8-inch PVC sanitary sewer located along the southern property line within a public sewer easement (BES as-built # 4495).
- **Stormwater Disposal** – There is an existing 10-inch concrete storm sewer running from the inlet on the south side of SW Dickinson Lane (AQQ406) onto the subject property. The inlets and associated pipe were built by Multnomah County before the area was annexed into the City. The storm pipe currently drains stormwater from SW Dickinson Lane.

Zoning: The Residential 10,000 (R10) zone is a single-dwelling zone that is intended to preserve land for housing and to provide housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing and provides options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

Environmental overlay zones (“c” or “p”) protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to preserve the site’s protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less significant.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **December 27, 2021**. 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:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	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 outside of environmental zones.

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 41,136 square feet. The maximum density in the R10 zone is one unit per 10,000 square feet. Minimum density is one unit per 10,000 square feet based on 80 percent of the site area. Because the site is within the potential landslide hazard area there is no minimum density. The site has a maximum density of 4 lots. The applicant is proposing 2 single dwelling parcels. The density standards are therefore met. The required and proposed lot dimensions 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)
RF Zone	52,000	151,000	60	60	30
R10 Zone	6,000	17,000	50	60	30
Parcel 1	10,309		70	145	70
Parcel 2	9,780		70	140	70

* 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.

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

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

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

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

In order to identify which trees are subject to these requirements, the applicant provided an Existing Conditions Survey (Exhibit C.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.3) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures.

Based on this information, a 14-inch Bigleaf maple (#35) is subject to the preservation requirements of this chapter. All other trees on the site are exempt as they are either on the nuisance plant list, dead, or located completely or partially within the environmental zone.

The tree proposed for preservation is in good condition, is a native species, and the only non-exempt tree located outside of the environmental zone. The proposed root protection zone for the tree to be retained will allow for the type of development anticipated in the R10 zone and should not conflict with any existing utility easements, proposed services, or site grading. While this tree does not appear to conflict with any proposed development, the exact surveyed location is not clear as the project arborist added the tree to the preliminary survey as a part of their report. Therefore, prior to Final Plat approval, the applicant shall provide a supplemental survey demonstrating the surveyed location of Tree #35. Preservation of the 14-inch Bigleaf maple (#35) will comply with Option 4 of the Minimum Tree Preservation Standards (33.630.100.4). Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of the parcels and tract 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 Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.3-5) and the Arborist Report (Exhibit A.3). In addition, a Supplemental Survey will be required at the time of Final Plat review showing the surveyed location of Tree #35.

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

At the time of development, the individual 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 tree to be retained as part of this review may be applied toward meeting those Title 11 requirements.

D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.

Findings: The entire site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on parts of the site

that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

In order to evaluate the proposal against this criterion, the applicant has submitted a Geotechnical Investigation and Landslide Hazard Study dated September 9, 2021 and the Technical Memorandum dated December 6, 2021 by Central Geotechnical Services (Exhibit A.5/A.6). Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated these studies and provided the following findings (Exhibit E.5):

The site is located in the Potential Landslide Hazard Area. Site Development staff reviewed the Geotechnical Investigation and Landslide Hazard Study dated September 9, 2021 and the Technical Memorandum dated December 6, 2021 by Central Geotechnical Services. The reports conclude that the property can be developed in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across the street. The information provided is acceptable and satisfies the requirements of Sections 33.632.100 and 33.730.060.D.1.f of the Zoning Code.

Based on the foregoing, Site Development has determined that the lots, buildings, services, and utilities are located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street from the site. Further geotechnical evaluation will be required for development of new structures on individual lots. Subject to a condition of approval, this criterion can be 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 has steep grades (over 20%) and is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

The applicant submitted a Detailed Grading Plan (Exhibit C.3-4) in addition to a Landslide Hazard Report (Exhibit A.5/A.6) that describes how clearing and grading should occur on the site to minimize erosion risks. The applicant also provided a Tree Plan (Exhibit C.3-5) that designates areas on the site where grading should not occur in order to protect the roots of the tree on the site that will be preserved, and an arborist report (Exhibit A.3) that further discusses grading on the site.

Both the applicant's geotechnical engineer and arborist recommend that the amount of grading work occurring on the site be minimized as much as possible. It is anticipated that the grading will primarily involve excavating for the foundations of the new houses and trenching for the utilities but will not include mass grading of the site to alter the existing contours. Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns. Stormwater runoff from the lots will be appropriately managed by flow-through planters that will discharge to outfalls downslope of the development within the transition area of the environmental zone to assure that the runoff will not adversely impact

adjacent properties (see detailed discussion of stormwater management later in this report). In addition, no clearing and grading will be permitted within the root protection zone of the tree on the site that is required to be preserved. Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns.

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

Land Suitability: The site is currently undeveloped, and there is no record of any 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: The following tract is required:

- Tract A: Open Space (Environmental Resource Area *and Drainage Reserve*)

Per Environmental Standards for Land Divisions, a condition of approval will be required to document that Tract A is owned in common by the owners of Parcels 1 and 2, by a Homeowners' Association, by a public agency, or by a non-profit organization (33.430.160.E).

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract described above and facilities within this area. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

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

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

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

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

Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary. The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

Safety

The site is on the south side of SW Dickinson Lane approximately 250 feet west of SW Dickinson Court. At this location SW Dickinson Lane has a 32-foot wide paved roadway

surface with curbs. Sidewalks are intermittent in this block. The street terminates in a cul-de-sac just west of the subject site. Given the intermittent nature of the sidewalk corridor, the roadway currently provides access for all modes. The street is generally straight and slopes downward from west to east. 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 SW Dickinson Lane or SW Dickinson Court. Safety on this segment would be improved by having a separated sidewalk corridor. Adding additional pedestrian trips into an area with an incomplete sidewalk network will cause an incremental negative impact.

Street capacity

SW Dickinson Lane has a paved roadway surface which accommodates two-way vehicle travel. Due to the local service classification, the roadway also currently serves as a shared bicycle and pedestrian facility. SW Dickinson Lane appears to have adequate capacity to absorb the increase in bicycle and vehicle trips from the addition of one lot. Pedestrians must share the roadway with vehicles for the portions of the block for which sidewalks do not exist. Additional pedestrian trips will cause an incremental negative impact.

Level of service

This is a term used to describe vehicular traffic; it currently has little to no meaning for other modes. At this location, SW Dickinson Lane is a local service street for which traffic counts are not available. PBOT has not identified any level of service concerns with this segment in the TSP or other planning documents. Given the short length and dead-end nature of the street, it is unlikely there are many vehicle trips other than those seeking access to properties directly served by this segment. It is believed this segment functions well for vehicular travel and has capacity to absorb the anticipated vehicle trips from one additional residential lot.

Connectivity

The site is an area with moderate connectivity. There is a relatively intact network of streets throughout the area that provide multiple connections. From the subject site, travelers can go east and north to access SW Stephenson Street. From SW Stephenson St, multiple connections exist to the north, east, and west. Connectivity to the south is impaired by the presence of Dickinson Spring Creek, a protected natural resource with steep topography. Substantial out of direction travel is required to the east or west prior to being able to go south. The subject site does not provide any opportunity to increase connectivity to the south. The southerly portion of the site is in the environmental protection "p" and environmental conservation "c" zones. As such, this portion of the site is required to be set aside in a natural resource tract and preserved. The property to the south has been previously divided with the natural resources along the creek also being placed into a tract abutting the south property line of this site. The steep slopes and presence of the protected waterway make creating a connection to the south infeasible.

Transit Availability

The closest bus transit is available on SW Boones Ferry Road. Due to the need to travel out of direction to access SW Boones Ferry Road, the closest stop is about a ¾ mile walk away at the intersection of SW Stephenson St. and SW Boones Ferry Road. Sidewalks do not exist for the vast majority of the distance between the subject site and the bus stop. SW Stephenson St. is a collector with some small pieces of sidewalk, but primarily contains striped vehicular lanes and a narrow shoulder. The bus service available is Tri-Met service line 38, which operates between the Tualatin Park and Ride and downtown Portland. The service is hourly service only during weekday AM and PM peak hours. There is no weekend service. While some transit service is available, it is a substantial walk from the site. Accessing that transit means walking on street which lack sidewalks.

Availability of pedestrian and bicycle networks.

Separated sidewalk facilities do not exist for the majority of the streets in the subject area. Most block faces have paved, low-speed, low-volume roadways which serve as shared facilities for trips by all modes. The subject site has neither a curb nor sidewalk. The addition of one lot to the neighborhood is anticipated to increase trips via all modes. Adding

additional pedestrian trips to an area where pedestrian facilities are not currently built to City standard will have an incremental negative impact.

Collector streets in the vicinity of the subject site also do not have separated bicycle facilities. Given the narrow roadways, high levels of vehicular traffic, and steep topography, both SW Stephenson St. and SW Boones Ferry Road are difficult streets to traverse on a bicycle. Multiple local service streets going northward from SW Stephenson St. operate as lower speed shared facilities. Cyclists can use the network of paved local service streets to access collectors such as SW Barbur Blvd. and SW Terwilliger Blvd, which have bicycle lanes.

On street parking impacts

Given the 32-foot pavement width, on street parking is available on both sides of SW Dickinson Lane. There appears to be little demand for on-street parking on this segment. Most of the homes along the streets in the immediate area include driveways and garages that accommodate multiple vehicles. Both proposed parcels are shown as having on-site parking. The addition of one lot to the neighborhood is not anticipated to have a substantial impact on the on-street parking supply in the area.

Access restrictions

SW Dickinson Lane. is a paved local service street that appears to have good sight distance at the subject location. No access restrictions are warranted.

Neighborhood impacts

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

Impacts on pedestrian, bicycle, and transit circulation

There is transit service available on SW Boones Ferry Rd. There is not a network of sidewalks to allow pedestrian connections to the transit service. The area roadways without sidewalks currently operate as shared facilities. The addition of one residential lot to the neighborhood is not anticipated to have a substantial impact on transit ridership or circulation. However, the addition of more pedestrians using the incomplete sidewalk network to access transit will have an incremental negative effect.

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. Sidewalk corridor improvements will be required to serve the proposed development (see criterion L. 33.654). These criteria are met.

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

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

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 from the 4-inch CI water main in SW Dickinson Lane, as noted on page 2 of this report. The Fire Bureau has reviewed the fire flow and determined the nearest fire hydrants do not have adequate capacity so residential fire sprinklers will be required in the new homes on Parcels 1 and 2. The water service standards of 33.651 have been verified. Subject to a condition requiring residential sprinklers, this criterion is met.

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 from the Public 8-inch PVC sanitary sewer in SW Dickinson Lane (BES as-built # 6520), as noted on page 3 of this report. BES reviewed the proposed improvement and utility plan and the response is summarized below:

Private Sanitary Pumping: Given the topography of the site and the location of the public sewer main in SW Dickinson Ln, it is not feasible to construct a gravity-only private sewer from the proposed development to the sewer in SW Dickinson Ln. In order to approve this type of configuration, the private sewer lateral must transition to gravity flow prior to entering the right-of-way. Prior to final plat approval, the applicant must revise the plans to show the private sewer laterals all the way to the properties and the locations of the proposed transition to gravity. The applicant should note that pumping sanitary flows on private property is under the authority of BDS Plumbing.

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. Subject to the condition of approval noted above, this criterion is met.

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

No stormwater tract is proposed or required. BES reviewed the applicant's proposed Composite Site Improvements Plan (Exhibit C.3-3) and stormwater and geotechnical reports (Exhibits A.4/A.5/A.6) 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:

- *Private Property Stormwater Management: Stormwater runoff from this project must comply with all applicable standards of the SWMM and SCM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the submitted stormwater and geotechnical reports from Central Geotechnical Services (12/21), and Fernwood Design Group (11/21). Based on steep slopes and known poor infiltration in the area, the applicant proposes for runoff from the development to be discharged via upland dispersion with guidance from appendix B of the Stormwater Management Manual after pollution reduction and flow and volume control standards are met with planters sized per the Simplified Approach. The stormwater and geotechnical reports concluded that upland dispersion of stormwater runoff is not anticipated to contribute toward slope instability or landslide risk.*
- *Public Right-of-Way Stormwater Management: Stormwater runoff from public right-of-way improvements as required by the City of Portland Bureau of Transportation (PBOT) must be managed according to the standards of the SWMM and the Sewer and Drainage Facilities Design Manual. Public right-of-way improvements designed and built through MIP will not trigger BES public stormwater drainage improvements.*

1. *The applicant has proposed to make a private connection to the existing public stormwater pipe located on Parcel 2 and discharge the stormwater through a private pipe and outfall within Tract A south of the future development.*
2. *Note that a Utility Connection (UC) permit will be required to make a private pipe connection to the public pipe located on parcel 2. To initiate this UC permit, the applicant should call Joe Blanco directly at 503-823-2059 or Joe.Blanco@Portlandoregon.gov.*
3. *The revised site plan indicates that a 10-foot storm drain easement is proposed for the entire length of the private pipe. Note that no easement is required over the private portion of the pipe as it will be the responsibility of the property owner to maintain that system. A 10-foot public easement will be required over the existing public pipe located on Parcel 2. This easement will end at the point where the private connection is made.*

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

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against this criterion and has provided the following findings (see Exhibit E.2):

The site is an area with moderate connectivity. There is a relatively intact network of streets throughout the area that provide multiple connections. From the subject site, travelers can go east and north to access SW Stephenson Street. From SW Stephenson St, multiple connections exist to the north, east, and west. Connectivity to the south is impaired by the presence of Dickinson Spring Creek, a protected natural resource with steep topography. Substantial out of direction travel is required to the east or west prior to being able to go south. The subject site does not provide any opportunity to increase connectivity to the south. The southerly portion of the site is in the environmental protection "p" and environmental conservation "c" zones. As such, this portion of the site is required to be set aside in a natural resource tract and preserved. The property to the south has been previously divided with the natural resources along the creek also being placed into a tract abutting the south property line of this site. The steep slopes and presence of the protected waterway make creating a connection to the south infeasible.

For the reasons described above, this criterion is met.

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

33.644.120.H Street Trees – See Exhibit E.6

The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features. For public streets, PBOT reviews the configuration of elements within the street right-of-way for consistency with city standards and specifications; and Urban Forestry addresses the retention and installation requirements for street trees. The Development Review Section of the Portland Bureau of Transportation (PBOT) has provided the following findings (see Exhibit E.2):

The existing right-of-way is 50-feet in width. The roadway is offset in the right-of-way. Based on scaling from the submitted survey, there is 13-feet of right-of-way from face of curb to property line. As discussed above, the applicant will be required to construct a 6-ft curb tight sidewalk behind an existing curb line. Water meters and street trees will be required behind the sidewalk corridor. There is adequate room to accommodate the

expected users of the roadway and PBOT has approved the configuration of the elements of the street through Public Works Alternative Review 21-094543-PW. These criteria are met.

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

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

1. *Existing Street Conditions*

- a. *SW Dickinson Ln : The site has approximately 140 feet of street frontage. The right-of-way is improved with pavement and curbs, no planting strip, and no sidewalks. There are no overhead high voltage power lines. There are 9 street trees.*
 - i. *Sweet cherry (Prunus avium) 6"-17" DBH. Trees are in poor condition. Sweet cherry is listed on the Nuisance Plant List.*

2. *Street Tree Preservation (11.50.040)*

The existing street trees can all be approved for removal with no mitigation required.

3. *Street Tree Planting (11.50.060.C)*

The applicant has provided a conceptual street tree planting plan. One street tree must be planted or retained for each full increment of 25 linear feet (11.50.060.C.1). Street trees must be planted at a minimum 1.5 caliper inches. Trees will be required to be planted through the Building permit and Public Works Permit.

- a. *Parcel 1: There are approximately 70 feet of street frontage at this location, requiring 2 trees to be planted.*
- b. *Parcel 2: There are approximately 70 feet of street frontage at this location, requiring 2 trees to be planted.*

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

Prior to land division, the 140 feet of street frontage would have accommodated 5 street trees (one street tree is required for each 25 linear feet of right-of-way). After the land division there is room only for 4 street trees. Therefore, a fee of \$675.00 is required for the permanent loss of available planting space. (1 trees x 1.5-inch x \$450.00)

Based on the foregoing, the width of the right-of-way will be sufficient to accommodate the expected users. This criterion is met, with the condition that sidewalk improvements are made and payment for the loss of one available street tree planting space is made.

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-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.

Existing development that will remain after the land division. The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R10 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

Standards that apply to the land division. In this case, there are several Zoning Code standards that apply to the proposed land division. The standards of Section 33.430.160 Standards for Land Divisions and Planned Developments apply to the proposal. Conditions have been included for requirements that apply at the time of final plat and at the time of development.

- Resource areas outside designated disturbance areas must be placed entirely within an environmental resource tract. The tract must be owned in common by all of the owners of the land division site, by a Homeowners' Association, by a public agency, or by a non-profit organization (33.430.160.E).
- The combined total diameter of native trees cut in the environmental zone may not exceed 225 inches per dwelling unit (33.430.160.F). Native trees must be replaced as shown in Table 430-3.
- All vegetation planted in a resource area is native and listed on the Portland Plant List. Plants listed on the Nuisance Plant List are prohibited (33.430.140.L).
- Nuisance plants must be removed in an area of the site equal to 50 percent of the size of the permanent disturbance area within the environmental zone. The cleared area must be replanted with native plants (in quantities specified in code) selected from the Portland Plant List (33.430.140.L).
- Fences are allowed only within the disturbance area (lots) (33.430.140.O).
- Exterior lights within the environmental zone must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200-watt incandescent light) must be placed so they do not shine directly into resource areas (33.430.140.Q).

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 https://www.portland.gov/bds	Title 24 – Building Code, Flood Hazard, Clearing and Grading Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way OAR 340-071 and OAR 340-073 – Onsite Wastewater Treatment Systems
Environmental Services/503-823-7740 https://www.portland.gov/bes	Title 17 – Sewer Improvements Stormwater Management Manual
Fire Bureau/503-823-3700 https://www.portland.gov/fire	Title 31 – Fire Regulations Portland Fire Code
Transportation/503-823-5185 https://www.portland.gov/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 https://www.portland.gov/parks	Title 11 –Trees

Water Bureau/503-823-7404 https://www.portland.gov/water	Title 21 – Water availability
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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; fire apparatus access, including aerial access; and providing internal fire suppression sprinklers for new development on Parcels 1 and 2. These requirements are based on the technical standards of Title 31 and the Portland Fire Code (Exhibit E.4).

CONCLUSIONS

The applicant has proposed to partition the subject property into 2 parcels and an environmental resource tract of approximately 10,309 (Parcel 1), 9,780 (Parcel 2), and 21,046 (Tract A) square feet in size, as shown on the attached preliminary plans (Exhibits C.1-C.3). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are Tree Preservation and Services/Utilities. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in two standard lots (Parcels 1 and 2) and an Environmental Resource Tract (Tract A), as illustrated with Exhibits A.3 and C.1– C.3, subject to the following conditions:

- A. Supplemental Plan.** An additional supplemental plan shall be submitted with the final plat survey for Land Use and BES 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 Tree #35 (14-inch Bigleaf maple) with associated root protection zone;
 - Depiction of how sanitary sewer laterals serving Parcels 1 and 2 will transition to gravity on private property;
 - The proposed general location of future building footprints and stormwater facilities for Parcels 1 and 2;
 - Any other information specifically noted in the conditions listed below.
- B. The final plat must show the following:**
1. A public sanitary sewer easement, granted to the City of Portland, shall be shown over the relevant portions of the public stormwater pipe located on Parcel 2, to the satisfaction of the Bureau of Environmental Services. The easement must be labeled as “Public Sewer Easement to COP”.
 2. The environmental resource tract shall be noted on the plat as “Tract A: Open Space (Environmental Resource and Drainage Reserve).” A note must also be provided on the plat indicating that the tract will be commonly owned and maintained by the owners of Parcels 1 and 2 or be consistent with the ownership requirements of 33.430.160.E.
 3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.2-C.4 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:


1. The applicant must complete the following to the satisfaction of Bureau of Environmental Services and Bureau of Development Services to address the public stormwater infrastructure located on Parcel 2:
 - Demonstrate that the stormwater discharge from the public infrastructure on Parcel 2 can be managed in such a way that the future development on Parcel 2 will not be negatively impacted. A new private connection from the existing public stormwater pipe on parcel 2 must be reviewed through a BES Utility Connection Permit (UC). Prior to final plat approval, the modifications must be built and the UC and all other required permits for the new private pipe, outfall, and modifications to the existing drainage path must receive final inspection approval.
2. A Maintenance Agreement shall be executed for Tract A, the Environmental Resource tract described in Condition B.2 above. 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. The agreement must also include:
 - assign common, undivided ownership of the tract to the owners of all lots, a homeowner's association or meet the requirements of 33.430.160.E;
 - include provisions for assigning maintenance responsibilities for the tract;
 - provisions assigning maintenance responsibilities for required plantings located within the tracts;
 - include a description of allowed/prohibited activities consistent with Chapter 33.430;
 - include conditions of this land use approval that apply to the tract.
3. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcels 1 and 2 to contain internal fire suppression sprinklers, per Fire Bureau Appeal #27812. The acknowledgement shall be referenced on and recorded with the final plat.
4. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.
5. 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.
6. The applicant must obtain and finalize a Zoning Permit for clearing and planting within the environmental resource tract as follows:
 - Clearing of nuisance species and replanting an area equal to 50 percent of the permanent disturbance area associated with the stormwater outfalls within the environmental zone with native grass seed mix, 7 groundcover plants and 2 shrubs per 50 square feet of cleared area, per 33.430.140.L.
 - Replanting per 33.430.160.F and Table 430-3 for the removal of any native trees within the environmental zone. The combined total diameter of native trees cut may not exceed 225 inches per dwelling unit.
 - Trees must be minimum one-half inch in diameter, shrubs must be in at least one-gallon pots and groundcovers must be in a least 4 inch pots. All plants must be native species selected from the Portland Plant List.

- The permit plans must show the location, size and species of the required plants. The plants must be inspected and the Zoning Permit must receive final inspection approval prior to final plat approval.
- All new plantings must be labeled “Required plantings, per LU 21-091619 LDP”.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Plan (Exhibit C.3-5), Supplemental Survey, and the applicant's arborist report (Exhibit A.3). Specifically, tree #35 (14-inch Bigleaf maple) is required to be preserved with a standard root protection zone. 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 shall meet the requirements of the City Engineer for construction of a sidewalk corridor along the frontage of Parcels 1 and 2 consistent with approved Public Works Alternative Review 21-094543-PW.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
4. The applicant will be required to install residential sprinklers in the new houses on Parcels 1 and 2 to the satisfaction of the Fire Bureau.
5. A geotechnical report will be required for development of new structures on Parcels 1 and 2 to the satisfaction of the Site Development section of BDS.
6. Development on lots shall be in conformance with the following:
 - a. Prior to starting home construction on Parcels 1 and 2, the applicant shall install 4-foot high temporary construction fencing along the rear lot line that abuts the Environmental Resource Tract. The fence must be shown on building permit plans. The fence shall remain in place until the final erosion control inspection is completed.
 - b. Fences are allowed only within lots (not within the tract).

Staff Planner: Sean Williams

Decision rendered by:  **on August 5, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 9, 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 September 29, 2021, and was determined to be complete on December 16, 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 September 29, 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, as stated with Exhibits (Exhibit A.8 & A.9). Unless further extended by the applicant, **the 120 days will expire on: October 12, 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 August 23, 2022. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIx decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Land Use Application & ELD Form
 - 2. Approval Criteria Narrative
 - 3. Arborist Report (10/28/21)
 - 4. Stormwater Report
 - 5. Geotechnical Report & Landslide Hazard Study
 - 6. Geotechnical Memo for Stormwater
 - 7. Response to Incomplete Letter
 - 8. Request for Extension (3/3/22)
 - 9. Request for Extension (6/15/22)
 - 10. Fire Code Appeal #27812
 - 11. PW Alternative Review Decision (21-094543 PW)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plat (attached)
 - 2. Existing Conditions Survey
 - 3. Plan Set (6/2/22)
 - 1. Cover Sheet & Notes
 - 2. Existing Conditions
 - 3. Composite Site Improvement Plan (attached)
 - 4. Detailed Grading & Public Improvements Plan
 - 5. Tree Plan
 - 6. ESC Details & Notes
 - 7. Details – Utility (1)
 - 8. Details – Utility (2)
 - 9. Details – Road
 - 10. Details - Storm
 - 4. Plan Set (12/9/21)
 - 5. Original Plan Set (9/27/21)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services (6/27/22; 2/16/22; 2/2/22)
 - 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
 - 7. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Incomplete Letter w/ RFC Responses

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).