



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

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Date: January 27, 2023
To: Interested Person
From: Erik Forsell, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 22-187055 LDP

GENERAL INFORMATION

Applicant/Owner: David Miller –Tall Guy Properties Inc.
Po Box 19676
Portland, OR 97280
(503) 314-0227
dave@tallguyproperties.com

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

Surveyor: Toby Bolden – Centerline Concepts Inc
19376 Molalla Ave Suite 120
Oregon City, OR 97045

Site Address: 5812 SE 48TH AVE

Legal Description: BLOCK 112 LOT 4, WOODSTOCK
Tax Account No.: R928910630
State ID No.: 1S2E18CA 09600
Quarter Section: 3635

Neighborhood: Woodstock, contact Thatch Moyle or Les Szigethy at luc@woodstockpdx.org

Business District: Woodstock Community Business Association, contact at <http://www.woodstockbiz.com>

District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org

Plan District: None

Zoning: Single Dwelling Zone - R5

Case Type: LDP – Land Division, Partition

Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to partition the 10,008 square foot subject property into two parcels. One parcel will retain the existing development, the second parcel is proposed to accommodate future residential development. Parcel 1 is proposed to be 5,832 square feet in size and Parcel 2 is proposed to be 4,174 square feet in size.

In order to show feasibility for the provision of services and other criteria, the applicant has provided a conceptual development plan showing a single dwelling detached house footprint on Parcel 2, with a new driveway approach onto SE 48th Avenue. Parcel 1 is proposed to retain all existing development and conduct some relatively minor modifications to the existing driveway and paving area; otherwise, the existing dwelling and accessory structure are proposed to remain.

The applicant has provided a preliminary utility plan showing utility access and availability for both parcels. Parcel 1 will take sewer and water utility access directly from the right-of-way of SE Ramona Street. Parcel 2 is proposed to take water access from SE 48th Avenue and sewer access via a new proposed easement across Parcel 1 from SE Ramona Street.

A new curb cut, and driveway is proposed for Parcel 2. As part of the proposal, the applicant has elected to pay the Local Transportation Infrastructure Charge (LTIC) for SE Ramona Street and execute street and stormwater waivers of remonstrance in lieu of dedication and public street improvements. Please note that on-site parking is not required on any of the lots (refer to 33.266.110).

There are nine existing trees on the site and six are subject to the tree preservation regulations. The applicant is proposing to preserve a 6-dbh inch Dogwood (Tree #10190), a 25-dbh inch Colorado Spruce (Tree #10200), an 18-dbh inch Weeping Cherry (Tree #10404), and a 37-dbh inch Douglas Fir (Tree #10416). The balance of the remaining trees will be removed and are either nuisance trees or will conflict with future development.

Note that proposed parcels will qualify for additional density under the Residential Infill Options of 33.110.265.

This partition is reviewed through a Type Ix land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment or Environmental Review) are requested or required (see 33.660.110).

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

Relevant Approval Criteria: In order to be approved, this proposal must comply with the approval criteria of *Title 33*. The relevant criteria are found in **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

FACTS

Site and Vicinity: The site is a square shaped corner lot with frontage on both SE 48th and SE Ramona Avenues. The site contains an existing single-family dwelling, a detached garage and driveway. There are several mature trees present on the relatively flat site. The surrounding area is low-density residential in character and is approximately ¼ mile north of commercial uses found on Woodstock Boulevard.

Infrastructure:

- **Streets** – The site has approximately 100 feet of frontage on SE 48th Avenue and 100 feet of frontage along SE Ramona Street. There is one driveway with an approach onto SE Ramona Street that serves the existing house. At this location, SE 48th Avenue and SE Ramona are classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Four bus lines run in the vicinity of the site: Route 10 on SE Steele St, Route 19 on SE Woodstock Blvd, Route 71 along SE 52nd Ave, and Route 75 along SE Cesar Chavez Blvd - all within approximately quarter of mile to the site.

SE 48th Avenue has an existing 28-foot curb to curb paved surface within a 60-foot right-of-way with parking on both sides. Along the 100-foot wide site frontage the pedestrian corridor includes an 8-foot wide planter area, curb, 5-foot sidewalk and a 3-foot wide buffer at the back of the sidewalk (8-5-3 configuration).

SE Ramona Avenue has an existing 28-foot paved surface within a variable 60-foot right-of-way with parking on both sides. This section of the SE Ramona is currently not fully improved and contains only a paved driving surface, a large furnishing area and portions of curb.

- **Water Service** – There is an existing 6-inch water main in SE 48th Avenue. The existing house is served by a 1-inch metered service from the main in SE Ramona Street.
- **Fire Hydrants** The nearest fire hydrant is located approximately 90-feet south of the site at the northeast corner of SE 48th Avenue and SE Knight Street with a hydrant flow of 2,200 gpm with a minimum pressure of 20 psi. A second fire hydrant is approximately 160-feet northeast of the site at the northeast corner of SE Ramona Street and SE 49th Avenue with a hydrant flow of 2,200 gpm with a minimum pressure of 20 psi. The combined flow is 4,400 gpm.
- **Sanitary Service** - There is an existing 8-inch varying material public combination sewer line in SE Ramona Street. There is no sanitary sewer service available in SE 48th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: R5 –Single Dwelling Zone: 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.

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 8, 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:
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.
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 R5 Zone. Based on the applicant's survey, the site area is 10,008 square feet. The maximum density in the R5 zone is one lot per 5,000 square feet. Minimum density is one lot per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of 2 lots and a minimum required density of 1.6 lots which rounds down to 1 lot per 33,930.020.B.2.a. The applicant is proposing 2 single dwelling parcels/lots. The density standards are therefore met.

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

Zone	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R5	3,000	8,500	36	50	30
Parcel 1	5,832		58.28	100.08	58.28
Parcel 2	4,175		41.72	100.08	41.72

* 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 a tree 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 and a tree removal and preservation plans (Exhibit A.10, Exhibit C.2, and Exhibit C.6) that identifies each tree, its condition and suitability for preservation or its exempt status and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 6 trees, which provide a total of 130-inches of tree diameter, are subject to the preservation requirements of this chapter.

The table below describes trees present on the site, whether they are subject to preservation standards and proposed retention plan.

Tree Inventory On Site

ID # in Survey	Name	DBH (inches)	Condition	Proposed Action	Subject to Standards
10190	Dogwood	6	Fair	Preserve	Yes
10194	Cherry Plum	22	Poor	Remove	Yes
10200	Colorado Spruce	25	Fair	Preserve	Yes
10245	Cutleaf Birch	30	Poor	Remove	No (Nuisance)

					Species)
10269	Black Locust	42	Poor	Remove	No (Nuisance Species)
10404	Weeping Cherry	18	Poor	Preserve	Yes
10406	English Holly	7	Fair	Remove	No (Nuisance Species)
10416	Douglas Fir	37	Fair	Preserve	Yes
10431	Weeping Cherry	22	Poor	Remove	Yes
10432	Black Locust	24	Fair	Preserve	No Off-Property; Nuisance

Note: Sourced from Arborist Report, Exhibit A.10

Summary of Tree Preservation

Total Non-Exempt Tree Inches DBH on site	130
Total Preserved Inches DBH	86 or 66% of total dbh inches
Total Trees Over 20-inches DBH preserved	2 of 4 Non-Exempt

The trees proposed for preservation are in relatively good condition, include native/non-nuisance species, and 2 of the trees are 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R5 zone and do not appear to conflict with any existing utility easements, proposed services, or site grading.

Specifically, the applicant proposes to retain 50 percent of the trees that are 20 or more inches at dbh and 66 percent of the total tree diameter on the site, so the proposal complies with:

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

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

In order to ensure that future owners of the parcels 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 and must be carried out in conformance with the Tree Preservation Plan (Exhibit C.6) and the Arborist Report (Exhibit A.10).

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 trees to be retained as part of this review may be applied toward meeting those Title 11 requirements.

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

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

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

Tree Protection: To provide protection for trees proposed for preservation, the applicant proposed tree protection fencing and reasonably large root protection zones. Originally the applicant proposed to place utilities and stormwater infrastructure in the RPZ of the 18-dbh inch Weeping Cherry (Tree #10404), and the 37-dbh inch Douglas Fir (Tree #10416). Those plans were modified to move that infrastructure away from those tree's RPZ to better protect the trees during grading and excavation for utilities and site preparation. Specifically, the sewer lateral for Parcel 2 was moved outside the RPZ and the proposed stormwater drywell, moved to the front yard.

The applicant's arborist report identified one tree on an adjacent site that is approximately 18 feet SE of tree #10416, which will be preserved on the site with a root protection that will also protect the off-site tree. (Refer to Exhibit A.10 and Exhibit C.6).

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. So long as the root protection zones of trees to be preserved are fenced and measures are indicated by the consulting arborist are implemented, significant conflicts do not appear likely. This criterion is met.

Land Suitability: The site is currently in a low-density 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 parcel 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 Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2.

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.

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

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

All of the proposed parcels are on the east side of a north-south oriented street.

The Solar Access Approval Criteria are superseded by other conflicting requirements in the 600's chapters of the Zoning Code, per 33.639.020. The land division layout was in part dictated by the need to preserve some of the significant trees on the site, per 33.630.

In this proposal, the proposed site layout is necessary to preserve the existing dwelling on Parcel 1 while still adequately protecting trees and accommodating the development standards of 33.110. These other requirements supersede 33.639; therefore, the solar access criteria do not apply.

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

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

Evaluation factors include: safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced and measures to mitigate impacts may be necessary.

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

The applicant provided a written narrative addressing the transportation approval criteria above. Parcel 1 (corner lot) will retain the existing home and garage, which is accessed off SE Ramona; whereas Parcel 2 will be available for future development and fronts solely onto SE 48th Ave. While on-site parking is not required, the applicant is showing a driveway connection to Parcel 2 for at least one vehicle. The proposed driveway access must demonstrate compliance with TRN 10.40 at time of building permit. In order to maximize on-street parking availability in the neighborhood, the applicant will be removing the excess parking pad on-site and within the ROW of SE Ramona St. The applicant has chosen to pay the LTIC in lieu of frontage improvements for SE Ramona St. With retaining the existing home and ROW conditions, PBOT finds the neighborhood livability will be maintained and impact on on-street parking is expected to be negligible.

The proposed development adds negligible trips to the transportation network compared to existing volumes in the area and will not adversely impact intersection operations as the established street network provides redundant routes for multiple modes and is consistent with the zoning of the property. Therefore, the transportation system is capable of safely supporting the proposed development in addition to existing uses in the area and capable of maintaining acceptable levels of service.

PBOT has reviewed and concurs with the information supplied and available evidence. PBOT staff have conditioned the removal of the excess driveway that is within the right-of-way of SE Ramona Street abutting Parcel 1. In addition, the applicant has elected to pay into LTIC and sign waivers of remonstrance which are a condition of approval. These criteria can be met as conditioned.

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

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

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

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

The Fire Bureau has reviewed the fire flow and determined the nearest fire hydrant has adequate capacity.

The water service standards of 33.651 have been verified.

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

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

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

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

According to City records (historic plumbing permits and TV sewer inspection records), the existing house on Parcel 1 is connected to the combined sewer in SE Ramona St via a lateral located approximately 179 feet from the maintenance hole in SE 49th Ave. This places the lateral within the frontage of Parcel 1 and does not impact the proposed land division configuration.

There is no public sewer within the frontage of Parcel 2, new development on Parcel 2 will be served by a new connection to the combined sewer in SE Ramona St. Based on the submitted utility plan, a route of service to the combined sewer will be provided by a private sewer easement over and along the eastern property line of Parcel 1. BES management has approved the use of a private sanitary easement to provide service to Parcel 2 in lieu of extending the public sewer in SE 48th Ave. The easement must be shown on the final plat with accompanying maintenance responsibilities indicated in the easement language. With this condition, the sanitary sewer service standards of 33.652 have been verified.

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

BES reviewed the applicant's proposed improvement and utility plan and Simplified Approach Form against the stormwater management approval criteria and standards, and determined that a stormwater management system can be designed to 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:

- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain onto splash blocks. The existing garage has downspouts that discharge into underground piping. No modifications or changes were requested by BES staff for the existing stormwater infrastructure on Parcel 1.
- **Parcel 2:** Stormwater from this parcel 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. The facility 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.

BES determined the proposal is acceptable for reviewing the land division against the

stormwater management approval criteria and standards. This criterion is met.

33.654.110.B.1 Through streets and pedestrian connections

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

The subject property is on the southeast corner of SE 48th Avenue and SE Ramona Street. The block on which the subject property is located meets these requirements.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 and Exhibit E.5 **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.

For private streets, the Bureau of Development Services reviews the configuration of elements within the street right-of-way for consistency with the standards in Administrative Rules for Private Rights of Way.

SE 48th Ave: For a Local Street in the R5 zone, the City’s Creating Public Streets and Connections document (TRN 1.09) recommends an 11-ft wide pedestrian corridor comprised of a 0.5-ft curb, 4-ft wide furnishing zone, 6-ft wide sidewalk, and a 0.5-ft wide frontage zone. The existing corridor exceeds City standards in width but does not meet standards in configuration due to a 5-ft wide sidewalk. However, this frontage qualifies for an exemption under Administrative Rule TRN 1.22 “Infill Development on Streets with an Existing Sidewalk Corridor”. Accordingly, the existing sidewalk corridor configuration will be accepted as the standard sidewalk configuration for the block length.

SE Ramona St: For a Local Street in the R5 zone, the City’s Creating Public Streets and Connections document (TRN 1.09) recommends a 58-ft wide ROW to accommodate a 26-ft wide roadway with on-street parking on both sides and 15-ft wide standard pedestrian corridor consisting of a 0.5-ft curb, 8-ft wide stormwater management facility, 6-ft wide sidewalk and 0.5-ft wide frontage zone. (If a public stormwater management facility is not required within the pedestrian corridor, as determined by BES, the 8-ft stormwater facility may be reduced to a 4-ft furnishing zone.) The existing ROW condition does not meet City standards due to it being partially improved.

Due to the street being not fully improved and located on a Local Service traffic street, the subject site and existing ROW conditions qualifies under PCC 17.88.090, implemented by Admin Rule TRN-1.26, for the payment into the LTIC and the applicant has chosen that option in lieu of making full street improvements. Therefore, the applicant will be required to make the LTIC and sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval.

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

Due to the new lot line configuration, a fee-in-lieu of planting is required for the loss of one street tree planting location. Because one street tree is required for each 25’ of right-of-way, prior to the land division, seven street trees would have been required during development. After the proposed land division only six trees can be required. A fee of \$675 (\$450 per inch x 1.5” required size) in lieu-of-planting is required for the tree that cannot be planted.

Payment is required as a condition of final plat approval.

This criterion can be met as conditioned, with the requirement of LTIC payment and waivers being signed prior to final plat approval. Additionally, street tree requirements can be met through the fee in lieu payment as conditioned.

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

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

DEVELOPMENT STANDARDS

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

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are two Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 5 feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental plan showing the surveyed location of the existing building relative to the adjacent new lot lines.
- Vehicle Area for Parcel 1 – The existing driveway must be modified to meet the paving standards found at 33.266.120. Specifically, no more than 20 percent of the land area between the side street lot line and the side street building line may be paved or used for vehicle areas (33.266.120.C.1.b). The applicant proposes to comply with the standard by removing some of the existing paving. This must be documented through a zoning permit prior to final plat approval and shown on the supplemental plan provided for final plat approval.

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

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 https://www.portland.gov/bds	Title 24 – Building Code, Flood Hazard, Clearing and Grading Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way OAR 340-071 and OAR 340-073 – Onsite Wastewater Treatment Systems
Environmental Services/503-823-7740 https://www.portland.gov/bes	Title 17 – Sewer Improvements Stormwater Management Manual
Fire Bureau/503-823-3700 https://www.portland.gov/fire	Title 31 – Fire Regulations Portland Fire Code
Transportation/503-823-5185 https://www.portland.gov/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 https://www.portland.gov/parks	Title 11 –Trees
Water Bureau/503-823-7404 https://www.portland.gov/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements and aerial fire department access roads (see Exhibit E.4). These requirements are based on the technical standards of Title 31 and the Portland Fire Code.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plat (Exhibit C.4). 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:

- In lieu of public street improvements, the applicant will need to pay into the LTIC fund and provide signed waivers of remonstrance.
- Remove existing paving from the SE Ramona Street right-of-way and bring on-site vehicle paving into compliance with the current standards found in chapter 33.266.
- Provide easement location and language for sewer access to benefit Parcel 1 across Parcel 2.
- Protect the existing trees proposed for preservation according to the submitted arborist report.
- Pay into the tree fund for loss of space for street trees along the site's frontage.

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 in the single dwelling zone as illustrated with Exhibits A.10 and C.2 – C.6, subject to the following conditions:

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

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

B. The final plat must show the following:

1. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2.
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 #C.4 and C.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “(Name of Document) has been recorded as document no. _____, Multnomah County Deed Records.”

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

Streets

1. The applicant must meet Portland Bureau of Transportation requirements to pay the Local Transportation Infrastructure Charge (LTIC) for SE Ramona Street.
2. The applicant shall complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.

Existing Development

3. The applicant must remove excess driveway in the right-of-way of SE Ramona Street through a Minor Improvement Permit to the satisfaction of Portland Bureau of Transportation.
4. The applicant must obtain a finalized zoning permit for modifications to the existing vehicle area on Parcel 1 (the lot with the existing house). Specifically, the vehicle paving limit of 33.266.120.C must be met along the side street under the new lot configuration. The permit plans must include the note: *This permit fulfills requirements of Condition C.4 of LU 22-187055 LDP.* The paving area must be shown on the supplemental plan required by Condition A above.

Required Legal Documents

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

6. A Maintenance Agreement shall be executed for the Private Sewer Easement described in Condition B.1 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.

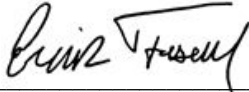
Other requirements

7. The applicant must pay into the City Tree Preservation and Planting Fund for Street Trees in the amount equivalent to one street tree (1.5 tree-inches). Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.

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

1. Development on Parcel 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.6) and the applicant's arborist report (Exhibit A.10). Specifically, trees numbered #10190, #10200, #10404, and #10416 are required to be preserved, with the root protection zones indicated on Exhibit C.6. Tree protection fencing is required along the root protection zone of the trees to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Tree Protection Specifications of 11.60.030.
2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 1, and 2. The location of the sign must be shown on the building permit.
3. The applicant must meet the Fire Bureau requirements for aerial fire department access or allowed exceptions. 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.

Staff Planner: Erik Forsell, AICP

Decision rendered by:  **on January 24, 2023**

By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) January 27, 2023

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 26, 2022 and was determined to be complete on December 6, 2022.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on September 26, 2022.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: April 5, 2023.**

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

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

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

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

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

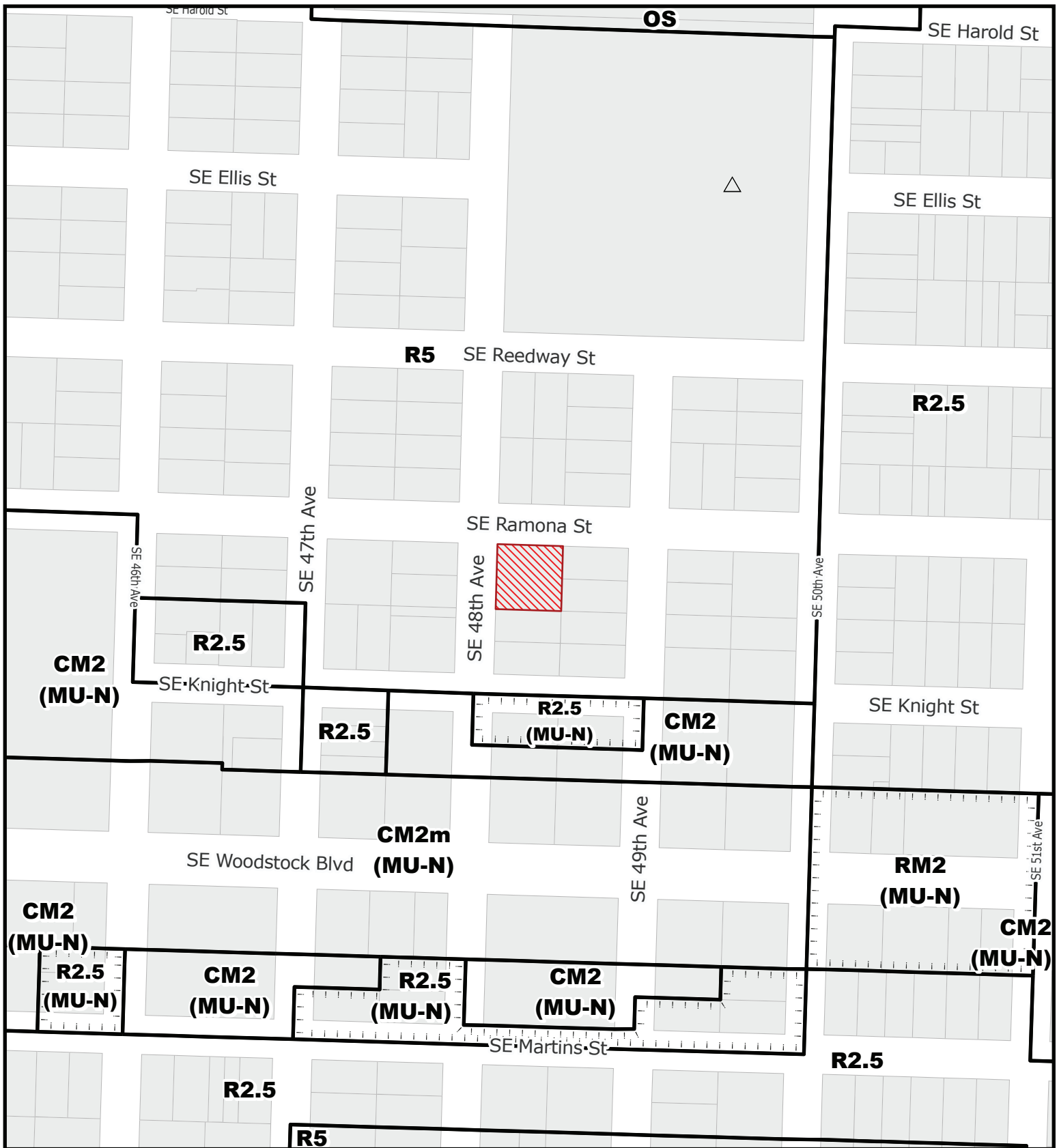
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Original narrative, 9.27.22
 - 2. Original existing conditions & demolition plan, 9.27.22
 - 3. Stormwater supplemental materials, 9.27.22
 - 4. Deed history, 9.27.22
 - 5. Owner LLC documents, 9.27.22
 - 6. Fire flow information, 9.27.22
 - 7. Original arborist report, 9.27.22
 - 8. Applicant's incomplete letter response, 11.30.22
 - 9. Existing sewer easement recorded document, 11.30.22
 - 10. Updated Arborist Report, 11.30.22
 - 11. Original drawing and plan set, 11.30.22
- B. Zoning Map (Attached)
- C. Plans/Drawings:
 - 1. Cover sheet
 - 2. Existing conditions and demolition Plan
 - 3. Proposed site and utility Plan (Attached)
 - 4. Preliminary plat
 - 5. Preliminary grading and erosion control plan
 - 6. Tree preservation plan map
- 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
- F. Correspondence from interested parties (none)
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete letter

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).

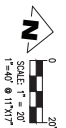
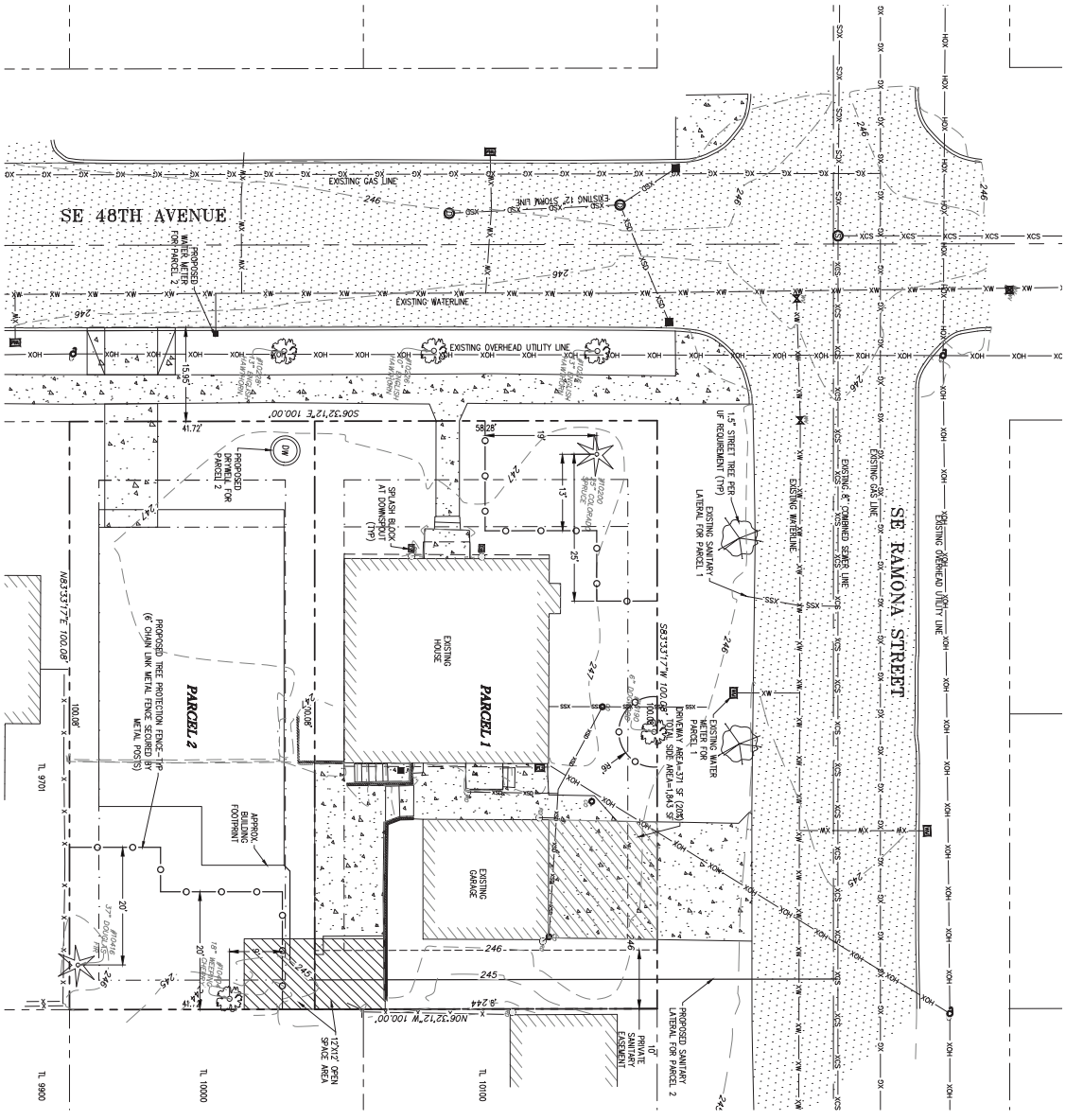


For Zoning Code in effect Post August 1, 2021

ZONING

-  Site
-  Historic Landmark

File No.	<u>LU 22 - 187055 LDP</u>
1/4 Section	<u>3635</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S2E18CA 9600</u>
Exhibit	<u>B</u> <u>Sep 27, 2022</u>



LEGEND

- BOUNDARY LINE
- ADJACENT/ADJOINING LOT LINE
- CENTER LINE ROW
- EXISTING 1" CONTIGUOUS LINE
- EXISTING 5" CONTIGUOUS LINE
- EXISTING TREE
- EXISTING STORM MANHOLE
- EXISTING CATCH BASIN
- EXISTING ROOF DRAIN
- EXISTING CLEANOUT
- EXISTING STORM MANHOLE
- EXISTING WATER METER
- EXISTING WATER VALVE
- EXISTING UTILITY POLE
- EXISTING COMBINED SEWER LINE
- EXISTING GAS LINE
- EXISTING STORM LINE
- EXISTING WATER LINE
- EXISTING OVERHEAD UTILITY LINE
- EXISTING FENCE
- PROPOSED SANITARY LATERAL
- PROPOSED WATER METERS

ZONE
RS
SETBACKS
FRONT: 10 FT.
REAR: 5 FT.
SIDE: 5 FT.

THE DENSITY REQUIREMENT:

PARCEL 1 = 5,832 SF X 0.4 = 2,333 SF
 EXISTING 6 DOUGLASS (500 SF) & 25 AMERICAN ELM (2,000 SF) TO BE PRESERVED. REQUIREMENT MET.

PARCEL 2 = 4,175 X 0.4 = 1,670 SF
 EXISTING 37' DOUGLASS FIR (3,000 SF) TO BE PRESERVED. REQUIREMENT MET.

FAR CALCULATION:

PARCEL 1
 EXISTING HOUSE = 1,890 SF
 EXISTING GARAGE = 420 SF
 EXISTING FAR = 0.4

PARCEL 2 ALLOWED = 2,087 SF (0.5 TO 1)

BUILDING COVERAGE:

PARCEL 1 (EXISTING) = 1,741 SF
 MAXIMUM ALLOWED = 2,375 SF

PARCEL 2 (PROPOSED) = 1,898 SF
 MAXIMUM ALLOWED = 1,941 SF

LUR 22-1870656 LDP - Exhibit C-3

PRELIMINARY SITE & UTILITY PLAN

5812 SE 48TH AVENUE
 TAX MAP T1S R2E 18CA
 TAX LOT 9600
 PORTLAND, OREGON

REVISIONS	
NO.	DESCRIPTION

EMERIO
 6445 SW FALLBROOK PLACE, SUITE 100
 BEAVERTON, OREGON 97008
 TEL: (503) 766-8812
 FAX: (503) 635-9592
 www.emeriodesign.com

SHEET	4
OF	5