



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

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Date: February 1, 2023
To: Interested Person
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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 22-188646 LDP

GENERAL INFORMATION

Applicant: Kevin Partain, Urban Visions
6180 Trout Creek Ridge Rd
Mt Hood Parkdale, OR 97041
503-421-2967, kevinp@gorge.net

Owner: Keystone LLC
14237 Bridge Ct
Lake Oswego, OR 97034

Representative: Thomas Beinhauer, Marx And Associates
18615 E Burnside St
Portland, OR 97233

Site Address: 5624 SE 44TH AVE

Legal Description: BLOCK 92 LOT 3, WOODSTOCK
Tax Account No.: R928906090
State ID No.: 1S2E18CB 10800
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
Other Designations: NONE
Zoning: R5 Single-Dwelling Zone - Residential 5,000

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

Proposal:

The applicant proposes to divide the property into two parcels. Parcel 1 is proposed to be approximately 5,010 square feet in area and Parcel 2 is proposed to be approximately 4,990 square feet in area. There is an existing house located on Parcel 1 that is proposed to remain.

No trees are proposed to be removed as part of this land division. There is an 8-inch Red Maple tree located behind the existing house that is proposed to be preserved. In order to show feasibility of providing services and other criteria, the applicant has provided a conceptual development plan showing single dwelling houses on Parcels 1 and 2. The proposed lots qualify for additional density under the Residential Infill Options of 33.110.265. On-site parking is not required (33.266.110).

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, Design Review, 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 subject site is approximately 10,000 square feet in area and is located at the northeast corner of SE Reedway Street and SE 44th Avenue. The site sits approximately two feet above the sidewalk at the north end of the property, but is otherwise flat. The site is developed with a single dwelling structure. There is one 8-inch Red Maple tree on the site.

The vicinity surrounding the subject site consists primarily of residential lots developed with detached single-dwelling structures. Woodstock Blvd, a commercial corridor, is .16 miles to the south of the site. Woodstock Park and Elementary are just to the northeast of the site. The surrounding street grid provides consistent connectivity throughout the neighborhood.

Infrastructure:

- **Streets** – The site has approximately 100 feet of frontage on SE 44th Avenue and 100 feet of frontage on SE Reedway Street. There is one driveway entering the site from SE Reedway that serves the existing house on the site. At this location, both SE 44th Avenue and SE Reedway Street are classified as a Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 845 feet from the site at SE Woodstock Boulevard via Bus 19.

SE 44th Avenue has a 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 a 6.5-foot wide planter area, curb, 6-foot sidewalk and a 3-foot wide buffer at the back of the sidewalk (6.5-6-3 configuration).

SE Reedway Street has a 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 is unimproved but has a curb. The pedestrian corridor along SE Reedway Street is approximately 16-feet of frontage from the face of the curb to the property line.

- **Water Service** – There is an existing 12-inch CI water main in SE Reedway Street. The existing house is served by a 3/4-inch metered service from this main.
- **Fire Hydrants** The nearest fire hydrant is located next to the site with a hydrant flow of 2500 gpm with a minimum pressure of 20 psi.
- **Sanitary Service** - There is an existing 8-inch VSP public combination sewer line in SE Reedway Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R5 zone 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.

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 20, 2022**. No written responses have been received from the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
J	33.640 - Streams, Springs, Seeps and Wetlands	No streams, springs, seeps or wetlands are evident on the site add if site has e-zoning outside of environmental zones.

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 10,000 square feet. The maximum density in the R5 zone is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area.

The site has a maximum density of two lots and a minimum required density of one lot, per 33.610.100.E.1. The applicant is proposing two single dwelling parcels. 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	5,001		50.01	100	50.01
Parcel 2	4,999		49.99	100	49.99

* 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 site survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. There was a 10-inch deciduous tree on the site that was removed as part of the demolition permit to remove the garage issued in 2022 (RS 22-174939). The applicant also provided an arborist letter (Exhibit A.6) that identifies the single tree on the site, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for the tree to be preserved.

Based on this information, one Red Maple tree, which provides a total of 8 inches of tree diameter, is subject to the preservation requirements of this chapter.

The Red Maple tree proposed for preservation is in good condition, is a non-nuisance species, is not 20 or more inches in diameter. The proposed root protection zones for the tree to be retained will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading.

The single 8-inch diameter tree is less than 20 inches in diameter and the applicant proposes to retain the tree, preserving 100 percent of the total tree diameter, so the proposal complies with *Option 4*.

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

In order to ensure that future owners of the Parcel 1 are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcel 1 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the Arborist Letter (Exhibit A.6).

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.

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. In addition, the Red Maple tree proposed for preservation is located along the east property line of Parcel 1 and is not anticipated to interfere with any future site grading of Parcel 1. This criterion is met.

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

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

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

The following easement is proposed and required for this land division:

- A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 2, for a sanitary sewer lateral connection that will serve Parcel 1.

The plat shows a 5-foot wide private sanitary sewer easement along the frontage of Parcel 2. Per the BDS Plumbing Code Guide, a 5-foot wide easement is allowable provided the sewer line will be installed and can be repaired without conventional open trench excavation within any portion of the easement area that is less than 10 feet wide.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and facilities within that 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 for the agreement, substantially similar to the following example:

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

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

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

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

Parcel 1 is an interior lot on the east side of a north-south street and should be the widest lot; while Parcel 2 is a corner lot on the northeast corner of the intersection and should be the narrowest. Parcel 1 is wider than Parcel 2, so 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):

The applicant provided a written narrative addressing the transportation approval criteria above. Parcel 1 (northern lot) will contain the existing home; whereas Parcel 2 (corner lot) will be available for future development. On-site parking is not currently proposed, however, if on-site parking is planned, it must demonstrate compliance with TRN 10.40 at time of building permit. 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.

Three bus lines run in the vicinity of the site: Route 19-Woodstock, Route 71-60th Ave, and Route 75-Cesar Chavez Blvd - all within approximately quarter of mile to the site. For bicycles, the streets of SE 41st, SE 46th, and SE Ramona are identified bicycle routes in the immediate vicinity. The remaining surrounding streets are low-volume roadways that provide alternative routes to other nearby bicycle paths and designated greenways. For pedestrians, sidewalks in the area are generally complete with the exception of the subject block, which the applicant will be constructing as condition of land division. The remaining streets are low volume in which provides a safe area to walk to nearby destinations. Therefore, PBOT finds the resulting proposed development will not negatively impact transit access or other transportation modes and will improve upon the established pedestrian environment.

PBOT has reviewed and concurs with the information supplied and 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. These criteria are met.

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

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

<p>33.651 Water Service standard – See Exhibit E.3 and Exhibit E.4</p> <p>The Water Bureau has indicated that service is available to the site, as noted on page 3 of this report.</p> <p>The Fire Bureau has reviewed the fire flow and determined the nearest fire hydrant has adequate capacity.</p> <p>The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 3 of this report.</p>

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

As a result of the proposed land division, the existing sewer connection that serves the house on Parcel 1 will cross over Parcel 2 to reach the sewer main in SE Reedway Street. The applicant must cap the existing sewer connection and establish a new service for the house on Parcel 1. All required plumbing permits must receive final inspection approval prior to Final Plat approval. The location of the new lateral must be shown on a supplemental utility plan submitted with the Final Plat.

There is no public sanitary sewer available in SE 44th Avenue. The applicant proposes to serve Parcel 1 via an easement over Parcel 2. BES has indicated this route of service is acceptable. The easement must be shown on the final plat.

With these conditions, the sanitary sewer service standards of 33.652 have been verified.

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

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

No stormwater tract is proposed or required.

The applicant has proposed the following stormwater management methods:

- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywell.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain into underground pipes. Prior to final plat, the applicant must modify the stormwater system for the existing house as necessary to comply with Stormwater Management Manual. Any required plumbing permits must have final inspection approval. A supplemental plan and photos demonstrating the retrofitted downspouts meet the requirements of Downspout Extensions found on page 3059 2020 SWMM must be submitted prior to final plat.

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 site is not within an area that has an adopted Master Street Plan and the block on which the subject property is located meets the noted spacing requirements. For these reasons, 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.

PBOT has provided the following findings:

In this case, the subject site's SE Reedway St frontage lacks a sidewalk corridor, which does not meet current standards in accordance with the City's Creating Public Streets and Connections document (TRN 1.09), and the existing corner does not appear to meet current ADA requirements. Due to the increased trip generation to the site, it is expected the demand on the public right-of-way system will increase, thus warranting the abutting system to be upgraded to meet current City requirements. As such, the project will be required to reconstruct the corner and install a 6-ft wide sidewalk corridor within the existing right-of-way behind the curb, matching the surrounding cross-section configuration of a 6.5-ft wide Furnishing zone, 6-ft wide sidewalk, and 3-ft wide frontage zone, to be reviewed under a Public Works permit as condition of land division approval.

PBOT has required that the corner and sidewalk corridor along SE Reedway be reconstructed to a 7-6-3 configuration, reviewed through a Public Works permit, which is to receive 30% concept approval prior to Final Plat approval.

Urban Forestry evaluated the provision of street trees and planting areas for the public right-of-way and determined that the site has approximately 100 feet of street frontage along both SE Reedway Street and SE 44th Avenue. There are no street trees along either frontage. One street tree is required for each 25 linear feet of right-of-way. Due to the new lot line configuration a fee-in-lieu of planting is required for loss of street tree planting locations.

Prior to the lot division 8 street trees would have been required during development. After the proposed lot division only 7 trees can be required. This is because along SE 44th Ave the new lot configurations are not neatly divisible by 25. 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. Street trees required as a condition of land division must be planted by final plat. Other street tree plantings are subject to Title 11 regulations during the permit review process and may be deferred until completion for the building permit on Parcel 2.

Two street trees are required to be planted adjacent to the existing building on Parcel 1 prior to final plat approval. Fee-in-lieu of planting of \$675 is required for one tree that cannot be planted as a result of the land division prior to final plat.

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

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

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

DEVELOPMENT STANDARDS

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

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 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 5.23 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.
- **Onsite Parking** - Due to the land division, the parking space for the existing house will be located on a different lot. No parking is required for Household Living uses in the single-dwelling zones. No onsite parking is proposed for the existing house on Parcel 1. The applicant obtained a permit to remove an existing garage and retain the parking space and curb cut to be used for future development on Parcel 2. The demolition permit for the garage has been finalized and the remaining curb cut and parking space may be used for Parcel 2.

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 fire apparatus access, including aerial access. This requirement is 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 plan (Exhibit C.1). 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 include tree preservation of a single tree on Parcel 1, construction of sidewalk improvements along SE Reedway Avenue, planting of street trees, removal of an existing septic system, provision of a new sanitary line and easement servicing Parcel 1, and stormwater improvements necessary for the existing home on Parcel 1.

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 as illustrated with Exhibits A.6 and C.1, subject to the following conditions:

- A. Supplemental Plan.** An additional supplemental plan shall be submitted with the final plat survey for Land Use Review 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 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;
 - The location of the new sanitary lateral serving Parcel 1;
 - The location of retrofitted downspouts for the existing development on Parcel 1;
 - 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 Conditions C.6 and C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for a Private Sanitary Sewer Easement has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's SE Reedway Avenue frontage. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements.

Utilities

2. Prior to final plat approval the applicant must cap the existing lateral for the future use of development on Parcel 2 and establish a new route of service (within an approved easement location) and connection from the existing home to the public sewer. If modifications to the lateral are necessary, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

Existing Development

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the septic system on the site.
4. The applicant must meet the requirements of BES for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the gutters and downspouts must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by BES, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
5. The applicant must meet the requirements of Urban Forestry to plant two street tree(s) in the planter strip on SE 44th Street adjacent to Parcel 1. The applicant must contact Urban Forestry at 503-823-TREE (8733) prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit.

Required Legal Documents

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.
7. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

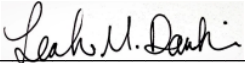
Other requirements

8. The applicant must pay into the City Tree Preservation and Planting Fund [Street Trees – Fee in Lieu of Planting and Establishment (per inch)] the amount equivalent to 1.5 inches of trees. Payment must be made to the Bureau of Development Services, which 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 shall be in conformance with the Site Plan (Exhibit C.1) and the applicant's arborist letter (Exhibit A.6). Specifically, the 8-inch Red Maple tree is required to be preserved, with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of the tree 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 zone is not permitted.
2. The applicant must meet the Fire Bureau requirements for 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.

Staff Planner: Leah Dawkins

Decision rendered by:  **on January 27, 2023**
By authority of the Director of the Bureau of Development Services

Decision mailed (within 5 days of dec.) February 1, 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 30, 2022, and was determined to be complete on December 5, 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 30, 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 4, 2023.**

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

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

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

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

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

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee is 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>.

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 City Planning Director, 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.**

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Narrative
 2. Completeness Review Response
 3. Revised Narrative
 4. SIM Form
 5. Storm Report
 6. Arborist Letter
 7. Original Site Plan
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Existing Conditions and Site Plan (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety Review Section of BDS
- F. Correspondence: None Submitted
- G. Other:
 1. Original LU Application
 2. Incompleteness 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 

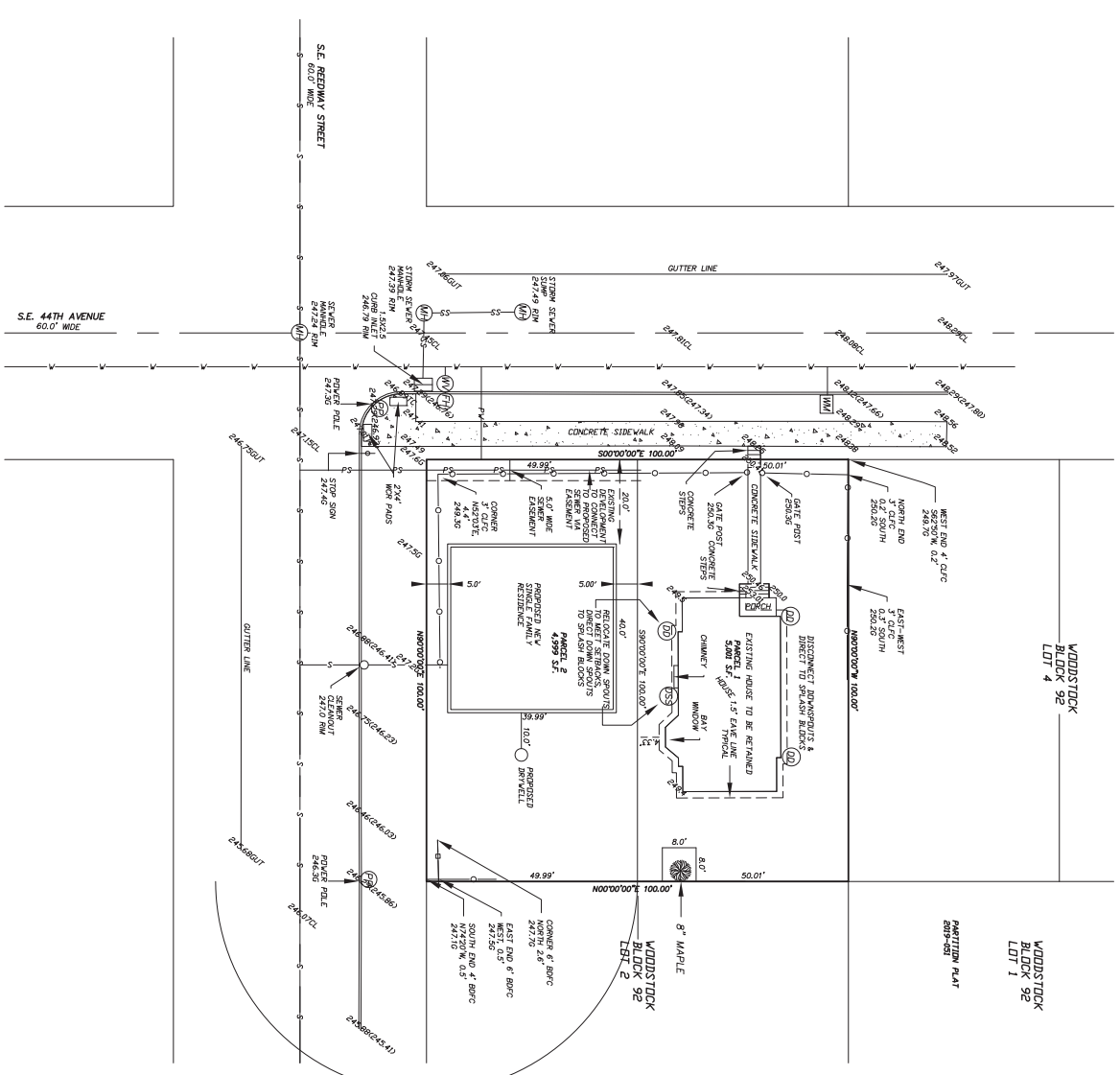
 Site

File No.	<u>LU 22 - 188646 LDP</u>
1/4 Section	<u>3635</u>
Scale	<u>1 inch = 200 feet</u>
State ID	<u>1S2E18CB 10800</u>
Exhibit	<u>B</u> <u>Sep 30, 2022</u>

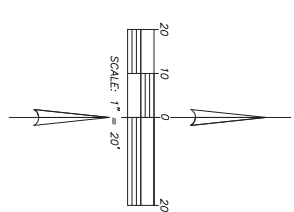
EXISTING CONDITIONS AND TENTATIVE PLAN FOR A PROPOSED PARTITION PLAN, LOT 3, BLOCK 92, WOODSTOCK, SITUATED IN THE S.W. 1/4 OF SECTION 18, T.15S., R.2E., W.M. MULTNOMAH CO., OREGON

MARY ASSOCIATES
18615 E. BURNSIDE STREET
PORTLAND, OR 97233
TEL: 503-667-5550
FAX: 503-666-8666
EMAIL: DON@MARYASSOCIATES.NET

DATE DRAWN: JULY 25, 2022
DRAWING NO. 22031EXC
ACCOUNT NO. 22031
REVISED: AUGUST 01, 2022
REVISED: AUGUST 16, 2022
REVISED: SEPTEMBER 26, 2022
REVISED: NOVEMBER 25, 2022
REVISED: JANUARY 26, 2023



REGISTERED PROFESSIONAL LAND SURVEYOR
THOMAS P. BEINHÄUER
ELECTRONIC SIGNATURE
BEGIN JULY 17, 1994
THOMAS P. BEINHÄUER
EXPIRATION DATE 12/31/23



- ZONING:**
R9 - RESIDENTIAL 5000
SITE SIZE:
10,000 SQUARE FEET
PARCEL DATA:
LOT 3, BLOCK 92, WOODSTOCK
- BENCHMARK:**
BENCHMARK IS CITY OF PORTLAND BENCHMARK NO. 3739
WEST CURB 7' SOUTH OF P.C. SW CORNER S.E. 43RD AVE
AND S.E. ELLIS STREET, ELEVATION IS 247.705, CITY OF
PORTLAND DATUM.
- NOTES & LEGEND:**
- [WM] DENOTES WATER METER
 - "- DENOTES CURB INLET, SIZE AS NOTED.
 - [MH] DENOTES MANHOLE, TYPE AS NOTED.
 - [PP] DENOTES POWER POLE
 - [PH] DENOTES FIRE HYDRANT.
 - "- DENOTES WATER VALVE.
 - "BPFC" DENOTES BOARD FENCE
 - "-O-" DENOTES BOARD FENCE
 - "CLFC" DENOTES CHAIN LINK FENCE
 - "-O-" DENOTES CHAIN LINK FENCE
 - "-W-" DENOTES WATER LINE
 - "-S-" DENOTES SEWER LINE.
 - "1213.450U" DENOTES GUTTER ELEVATION (ELEVATION IS AT THE DECIMAL POINT)
 - "123.45(123.00)" DENOTES TOP CURB/GUTTER ELEVATION (ELEVATION IS AT THE TOP CURB DECIMAL POINT)
 - "123.450L" DENOTES CENTERLINE ELEVATION (ELEVATION IS AT THE DECIMAL POINT)
 - "(123.450)" DENOTES GROUND ELEVATION AT ITEM NOTED.
 - "123.40" DENOTES SPOT ELEVATION (ELEVATION IS AT THE DECIMAL POINT)
 - "SF" DENOTES SQUARE FEET
 - "(OSS)" DENOTES DOWNSPOUT TO SURFACE.
 - "-D" DENOTES DOWNSPOUT TO DRAIN.
 - "WC" DENOTES WHEEL CHAIR RAMP
 - "-PW-" DENOTES PROPOSED WATER LINE
 - "-PS-" DENOTES PROPOSED SEWER LINE

NOTE: UTILITIES ARE LOCATED AS SHOWN PER FIELD RECONSTRUCTION AND FIELD VERIFIED BEFORE CONSTRUCTION. UNDERGROUND UTILITIES ARE SURFACE MARKED.

