



# Portland City Auditor

## Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100, Portland, OR 97201

[www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)

phone: (503) 823-7307

fax: (503) 823-4347



### DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

**File No.:** LU 16-111348 LDS  
(Hearings Office 4160001)

**Owner:** Ken Eagon  
Zeto Homes LLC  
4080 SW Charming Way  
Portland, OR 97225-2023

**Applicant:** Zach Pelz  
AKS Engineering & Forestry  
12965 SW Herman Road, Suite 100  
Tualatin, OR 97062

**Site Address:** 8665 N Edison Street

**Hearings Officer:** Gregory J. Frank

**Bureau of Development Services Representative:** Sean Williams

**Legal Description:** BLOCK 27 LOT 1, JAMES JOHNS ADD

**Tax Account No.:** R425802850

**State ID No.:** 1N1W12BA 03900

**Quarter Section:** 2121

**Neighborhood:** Cathedral Park

**Business District:** St. Johns Business Boosters

**District Coalition:** North Portland Neighborhood Services

**Plan District:** St. Johns

**Other Designations:** Potential Landslide Hazard

**Zoning:** Residential 1,000 (R1) w/ Design (d) Overlay

**Land Use Review:** Type III, Land Division Subdivision (LDS)

**Bureau of Development Services Staff Recommendation to Hearings Officer:** Approval with Conditions

**Public Hearing:** The hearing was opened at 9:00 a.m. on April 6, 2016, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 9:14 a.m. The applicant waived applicant's rights granted by ORS 197.763 (6)(e), if any, to an additional seven day time period to submit written rebuttal into the record. The record was closed to all testimony and/or written submissions at the end of the hearing.

**Testified at the Hearing:**

Sean Williams  
Zach Pelz

**Proposal:**

The applicant is proposing to subdivide the subject property into four equally sized lots of approximately 2,500 square feet that will be developed with attached houses. Accessory dwelling units are proposed on each lot to meet minimum density requirements. The site is currently developed with an industrial building that will be demolished. All trees located within the land division site are exempt from preservation standards.

Water is available within N Edison Street to serve the proposed development. A sanitary sewer extension is proposed within N Edison Street to serve the lots. Stormwater management is proposed via individual infiltration facilities (drywells). The site's N Edison Street frontage will be redeveloped with standard sidewalk improvements and a pedestrian connection is proposed within the adjacent undeveloped N Pittsburg Avenue right-of-way that will connect N Willamette Boulevard to N Edison Street.

This subdivision proposal is reviewed through a Type III procedure because: (1) the site is in a residential zone; (2) four or more lots are proposed; and (3) the site is located within a Potential Landslide Hazard Area (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create four units of land (four lots). Therefore this land division is considered a subdivision.

**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**.

**Hearings Officer Decision:** It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of the Bureau of Development Services in their Staff Report and Recommendation to the Hearings Officer dated March 25, 2016, and to issue the following approval:

**Approval** of a Preliminary Plan for a 4-lot subdivision that will result in four lots for attached houses, as illustrated with Exhibits C.1-10, subject to the following conditions:

**A. The following must occur prior to Final Plat approval:**

1. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's N Edison Street and N Pittsburg Avenue frontages. 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.
2. The applicant shall meet the requirements of the Bureau of Environmental Services for extending a public sewer main in N Edison Street. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to the Bureau of Environmental Services prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to the Bureau of Environmental Services prior to final plat approval.
3. A finalized permit must be obtained for demolition of the existing building on the site and capping the existing sanitary sewer connection.

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


1. The minimum and maximum density for the lots in this land division are as follows:

Lot	Minimum Density	Maximum Density
1	1	2
2	2	2
3	2	2
4	2	2

2. Lots 2-4 must be developed with an Accessory Dwelling Unit.

3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Basis for the Decision:** BDS Staff Report in LU 16-111348 LDS, Exhibits A.1 through H.4, and the hearing testimony from those listed above.

  
\_\_\_\_\_  
Gregory J. Frank, Hearings Officer

4/6/16  
\_\_\_\_\_  
Date

**Application Determined Complete:** February 16, 2016  
**Report to Hearings Officer:** March 28, 2016  
**Decision Mailed:** April 8, 2016  
**Last Date to Appeal:** 4:30 p.m. on April 22, 2016  
**Effective Date (if no appeal):** April 25, 2016

**Conditions of Approval.** 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.

**Appeal of the decision.** ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4<sup>TH</sup> AVENUE, PORTLAND, OR 97201 (503-823-7526). Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk

on the 5<sup>th</sup> floor. **An appeal fee of \$2,100 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

**Who can appeal:** You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

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

**EXHIBITS**  
**NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Statement
  - 1. Narrative
  - 2. Transportation Impact Analysis
  - 3. Geotechnical Report
  - 4. Landslide Hazard Analysis
  - 5. Arborist Report
  - 6. Fire Flow Availability Estimate
  - 7. Neighborhood Contact
  - 8. Stormwater Report
  - 9. Site Photos
  - 10. Public Works Alternative Review Decision
  - 11. Driveway Design Exception Decision
- B. Zoning Map
- C. Plans and Drawings
  - 1. Cover Sheet w/ Vicinity & Site Map
  - 2. Existing Conditions Plan
  - 3. Preliminary Subdivision Plat
  - 4. Preliminary Site Plan
  - 5. Preliminary Clearing, Grading, and Demolition Plan
  - 6. Preliminary Street Plan w/ Cross Section
  - 7. Preliminary Fire Marshall & Emergency Vehicle Access Plan
  - 8. Preliminary Utility Plan (attached) w/ Revision (2/25/16)
  - 9. Preliminary Tree Preservation & removal Plan
  - 10. Preliminary Tree Preservation & Removal Table
- D. Notification information
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. 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 Bureau of Development Services

- 6. Bureau of Parks, Forestry Division
- 7. Life Safety Plans Examiner
- F. Letters: NONE
- G. Other
  - 1. Original LUR Application
- H. Received in the Hearings Office
  - 1. Hearing Notice -- Williams, Sean
  - 2. Staff Report -- Williams, Sean (**attached**)
  - 3. PowerPoint presentation printout -- Williams, Sean
  - 4. Record Closing Information -- Hearings Office







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

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER**

**CASE FILE:** LU 16-111348 LDS  
PC # 15-243781

**REVIEW BY:** Hearings Officer

03-28-16 08:59 IN

**WHEN:** April 6, 2016 @ 9:00 am

**WHERE:** 1900 SW Fourth Ave., Suite 3000  
Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

**BUREAU OF DEVELOPMENT SERVICES STAFF: SEAN WILLIAMS / [SEAN.WILLIAMS@PORTLANDOREGON.GOV](mailto:SEAN.WILLIAMS@PORTLANDOREGON.GOV)**

**GENERAL INFORMATION**

**Owner:** Ken Eagon  
Zeto Homes LLC  
4080 SW Charming Way  
Portland, OR 97225-2023

**Applicant:** Zach Pelz  
AKS Engineering & Forestry  
12965 SW Herman Road, Suite 100  
Tualatin, OR 97062

**Site Address:** 8665 N Edison Street

**Legal Description:** BLOCK 27 LOT 1, JAMES JOHNS ADD  
**Tax Account No.:** R425802850  
**State ID No.:** 1N1W12BA 03900  
**Quarter Section:** 2121  
**Neighborhood:** Cathedral Park, contact Cole Grisham at 503-410-8463.  
**Business District:** St. Johns Business Boosters, contact Mike Johnson at 503-206-8633.  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.  
**Plan District:** St. Johns  
**Other Designations:** Potential Landslide Hazard  
**Zoning:** Residential 1,000 (R1) w/ Design (d) Overlay  
**Case Type:** Land Division Subdivision (LDS)  
**Procedure:** Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

**Proposal:**

The applicant is proposing to subdivide the subject property into four equally sized lots of approximately 2,500 square feet that will be developed with attached houses. Accessory dwelling

**RECEIVED**

**MAR 28 2016**

**HEARINGS OFFICE**

units are proposed on each lot to meet minimum density requirements. The site is currently developed with an industrial building that will be demolished. All trees located within the land division site are exempt from preservation standards.

Water is available within N Edison Street to serve the proposed development. A sanitary sewer extension is proposed within N Edison Street to serve the lots. Stormwater management is proposed via individual infiltration facilities (drywells). The site's N Edison Street frontage will be redeveloped with standard sidewalk improvements and a pedestrian connection is proposed within the adjacent undeveloped N Pittsburg Avenue right-of-way that will connect N Willamette Boulevard to N Edison Street.

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

## **FACTS**

**Site and Vicinity:** The site is located on the northwest corner of N Edison Street and N Pittsburg Avenue, which is an undeveloped right-of-way. Existing development consists of an approximately 4,000 square foot abandoned industrial building that will be removed. The northwest and northeast portions of the property have moderate slopes of up to 10 feet high that appear to have been created by cutting into a natural hillside. No trees subject to preservation standards are located within the site. Development within the vicinity consists of multi-dwelling structures to the east and west and a church to the north. Cathedral Park is located directly across N Edison Street.

### **Infrastructure:**

- **Streets** – The site has approximately 100 feet of frontage on N Edison Street and 100 feet of frontage on N Pittsburg Avenue (undeveloped). Almost the entire site's N Edison Street frontage is a curb cut that serves the existing industrial building. Both N Edison Street and N Pittsburg Avenue are classified as Local Service Streets for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service on N Philadelphia Avenue via Bus #16.

At this location, N Edison Street is improved with an approximate 32 foot paved roadway surface and pedestrian corridor that consists of a 4 foot planter, 6 foot sidewalk, and 2 foot setback to private property (4-6-2) within a 60 foot wide right-of-way. However, as noted above, almost the entire site's N Edison Street frontage is a curb cut. N Pittsburg Avenue is a 60 foot wide unimproved right-of-way at this location.

- **Water Service** – There is an existing 12-inch CI water main in N Edison Street. The existing building is served by a 5/8-inch metered service from this main.

- **Sanitary Service** – There is currently no sewer available along the site's N Edison Street or N Pittsburg Avenue frontages. There is an existing public 12-inch concrete sanitary sewer in N Edison Street at the intersection with N Pittsburg Avenue.

**Zoning:** The R1 designation is one of the City's multi-dwelling zones which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The "d" overlay promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

The St. Johns plan district provides for an urban level of mixed-use development including commercial, employment, office, housing, institutional, and recreation uses. Specific objectives of the plan district include strengthening St. Johns' role as the commercial and civic center of the North Portland peninsula.

**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 **March 14, 2016**. 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.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
B	33.630 – Tree Preservation	All of the trees within the land division site are exempt from review, per the attached Arborist Report (Exhibit A.5).
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	Not applicable. These standards only apply to land divisions in the RF through R2.5 zones.
F	33.634 - Recreation Area	Not applicable. The minimum required density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	The proposed development is for something other than single-dwelling detached homes.

J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required
	33.654.120.D - Common Greens	No common greens are proposed or required
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections 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.

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.612 contains the density and lot dimension requirements applicable in the R3 through IR zones. The applicant is proposing 4 lots for attached housing. Single-dwelling development is proposed for the entire site; therefore the proposed lots must meet minimum density and not exceed the maximum density stated in Table 120-3.

Minimum density in the R1 zone is one unit per 1,450 square feet and the maximum density is one unit per 1,000 square feet. The total site area shown on the applicant's survey is approximately 10,016 square feet. Therefore, the site has a minimum required density of 7 units and a maximum allowed density of 10 units.

In this zone, there are no minimum lot area requirements for lots designated for attached houses, detached houses, or duplexes. For this reason, it is necessary to condition the minimum and maximum density allowance on each lot in the land division, to avoid further division of lots in the future that could result in non-compliance with the overall density requirements of the site as it exists in this proposal.

As noted above, the applicant is proposing to create 4 lots and the minimum required density for the site is 7 units. In order to meet the minimum required density the applicant is proposing that each attached house have an accessory dwelling unit, which may be included in minimum density calculations, per 33.205.050.

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

<b>R1</b>	<b>Minimum lot area (square feet)</b>	<b>Minimum lot width (feet)</b>	<b>Minimum lot depth (feet)</b>	<b>Minimum front lot line (feet)</b>
<b>Attached Houses</b>	none	15	none	15
Lot 1	2,501	25	100.1	25
Lot 2	2,501	25	100.1	25
Lot 3	2,502	25	100.1	25
Lot 4	2,511	25.1	100.1	25.1

\* Width is measured from the midpoints of opposite lot lines.

The findings above show that the applicable density and lot dimension standards are met. Therefore, this criterion is met with the condition that at least 3 of the lots are constructed with an accessory dwelling unit.

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

**Findings:** A portion of this site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

To address this criterion, the applicant has submitted a Geotechnical Report (Exhibit A.3) and Landslide Hazard Analysis (Exhibit A.4) that evaluates the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer.

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated the Geotechnical Report and Landslide Hazard Analysis and concurred with the recommendations. The report indicates that slope geomorphology at the site is generally smooth and uniform, consistent with stable slope conditions. In addition, it was determined that no special design or construction provisions associated with planned development are needed to address slope issues on the site, other than retaining wall and temporary shoring measures.

Based on these factors, this criterion is met.

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

**Findings:**

***Clearing and Grading***

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.

In this case, a portion of the site has steep grades (over 20%) and is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns. The applicant submitted a Preliminary Clearing, Grading, and Demolition Plan (Exhibit C.5) along with a Geotechnical Report (Exhibit A.3) and Landslide Hazard Analysis (Exhibit A.4) that describes how clearing and grading should occur on the site to minimize erosion risks.

The Preliminary Clearing, Grading, and Demolition Plan indicates that a majority of the clearing and grading on the site will occur near the north and east (N Pittsburg Avenue) property lines to accommodate new retaining walls. It is anticipated that the grading will also include excavating for the foundations of the new houses and trenching for the utilities, but will not include mass grading of the site to alter the existing contours.

Stormwater runoff from the lots will be appropriately managed by individual Infiltration facilities (drywells) to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). As previously noted, all of the trees within the site have been exempted from preservation requirements, per the applicants Arborist Report (Exhibit A.5), and are expected to be removed. To the extent practical, topsoil will be preserved on site and a temporary stockpile area has been identified in an area that is designated for clearing and grading.

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

#### ***Land Suitability***

The site is currently occupied by an abandoned industrial building, and there is no record of any other use in the past. The applicant has proposed to remove this building and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site and sewer capping prior to final plat approval. With this condition, the new lots can be considered suitable for development, and 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 safely supporting the proposed development in addition to the existing uses in the area. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. The applicant submitted a Transportation Impact Analysis (Exhibit A.2) to address his criterion. PBOT has provided the following findings (see Exhibit E.2):

##### ***Street capacity and level-of-service***

**Findings:** Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by

average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

Using the evaluation factors listed in this code section, the applicant should provide a narrative and all necessary plans and documentation to demonstrate that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The applicant included a professionally prepared Traffic Impact Study (TIS) to adequately address the above referenced approval criterion. The following discussion is based on PBOT's assessment of the submitted TIS and transportation impacts for this proposal.

The proposed land division will create 4 lots from the current lot in order to accommodate 2 pairs of attached homes and 4 accessory dwelling units (one on each lot). Referring to the ITE Trip Generation Manual, 9<sup>th</sup> Edition, the proposed development on the site will generate 5 additional trips during the morning peak hour and 5 additional trips during the evening peak hour. The new residences are projected to generate 50 additional trips in total each weekday.

The applicant's traffic consultant conducted observations at the following several nearby intersections during the traditional morning and evening peak hours to obtain data/traffic volumes in order to determine existing levels of service and to project the capacity of the intersections in relation to the proposed development:

<u>Intersection</u>	<u>Existing LOS</u> <u>AM Peak/PM Peak</u>	<u>Projected LOS</u> <u>AM Peak/PM</u>
<u>Peak</u>		
N Edison/N Pittsburg (stop controlled)	B/B	B/B
N Willamette/N Burlington (stop controlled)	B/B	B/B
N Salem/N Burlington (stop controlled)	A/A	A/A

As demonstrated above, all study intersections are currently operating well within City operational standards, and will continue to do so following the addition of the project trips from the proposed development. As found by the applicant's traffic consultant, site generated vehicle trips will have negligible impacts to the capacity of nearby intersections. This evaluation factor is satisfied.

#### Vehicle access and loading

**Findings:** The subject property is located just south of the St. Johns Bridge and is approximately a ½ mile from N Lombard St, which is highly classified in the City's Transportation System Plan and provides access to several other major transportation routes. The St. Johns Bridge connects to Oregon State Highway 30 on the west side of the Willamette River and provides excellent connectivity to the greater street network.

Loading is expected to take place using primarily the 100-ft of available space along the property frontage. Loading activities associated with residential land uses are typically light and infrequent, and there is ample space for these activities to occur on-site on the proposed driveways.

The subject site provides adequate access for motor vehicles as well as other modes. Vehicle access and loading space at this location are sufficient to accommodate the existing uses as well as the proposed project. This evaluation factor is satisfied.

On-street parking impacts

**Findings:** The applicant's traffic consultant conducted on-street parking observations during three analysis periods: Sunday mid-day, weekday evening peak hour, and weekday overnight. The overnight period corresponds to the expected peak period for residential parking and had the highest demand of the analysis periods. Occupancy rates never reached above 73% during observations and the block segment of N Edison St directly across from the subject property was always empty, providing approx 180-ft of on-street parking opportunities to the property. With the development of 4 new homes and 4 ADUs, the site is expected to have a peak demand of 11 spaces, and this is adequately served by the 4 single-car garages expected to be constructed and the on-street parking supply.

PBOT staff had initial concerns relative to this evaluation factor in relation to the nearby and popular Cathedral Park and its numerous yearly special events. Cathedral Park is known to have spillover into the adjacent neighborhood streets, but observations by the applicant's traffic consultant showed that adequate parking would be available in the three parking lots and streets like N Pittsburg Ave that are adjacent to the park. The proposed project will minimally increase the demand for on-street parking and based on observations, the area will be able to accommodate the existing and new parking needs. This evaluation factor is satisfied.

Availability of transit service and facilities and connections to transit

**Findings:** The subject site is located within a ¼-mile of bus stops served by the following 5 Tri-Met bus lines that serve the local vicinity as well as the broader area of the City in all directions: Route #4, Division/Fessenden, Route #11, Rivergate/ Marine Dr, Route #16, Front Ave/St. Helens Rd, Route #44, Capitol Highway/Mocks Crest, and Route #75, Cesar Chavez/Lombard.

The site is well served by transit, and comfortable and safe walking routes between the site and all stops are available. This evaluation factor is satisfied.

Impacts on the immediate/adjacent neighborhoods

**Findings:** As analyzed above, the impact of the proposed project's generated vehicle trips on area intersections and streets will be negligible and the operations of the transportation system will continue to be acceptable. Currently, there is sufficient on-street parking to serve the demand of the existing uses in the area. As demonstrated above, adequate on-street parking opportunities will remain after the construction of the proposed subdivision. From a transportation perspective, these noted areas (transportation system and parking impacts) are impacts that can adversely affect neighborhoods. These issues are not expected to negatively impact the immediate or adjacent neighborhoods. This evaluation factor is satisfied.

**Findings:** Crash records were examined by the applicant's traffic consultant for the most recent reporting time frame available (2010-2014) for the three study intersections (and beyond). Crash rates and patterns were below a level indicative of potential safety concerns, and there were no apparent safety deficiencies noted during site visits. Crash rates greater than 1.0 CMEV (crashes per million entering vehicles) are generally indicative of a need for further investigation and possible mitigation. Based on the detailed crash data and the calculated crash rates, there are no apparent existing safety deficiencies at the study intersections. Accordingly, the vicinity of the site is safe for motor vehicles.

Regarding active modes, the streets in the vicinity of the site are low-speed, low-volume residential roads that can safely be shared between bicycles and motor vehicles. With regard to bicyclists, there are identified bike facilities (Portland Bike/Walk Map) in the area, including a shared roadway (N Willamette) and a Multi-use path/paved facility (N Philadelphia/St Johns Bridge).



*Sidewalks are available throughout the area for safer pedestrian passage and the nearby Cathedral Park provides pedestrian pathways for additional use. Marked crosswalks are not present at most of the residential intersections in the area, but become available when crossing N Lombard St to the north of the subject property. It should be noted that in relation to the proposed subdivision construction, the applicant will be required to improve the N Edison frontage of the site with a City standard sidewalk corridor. Further, in lieu of constructing a standard street along the site's Pittsburg St frontage, the applicant will be constructing a stair-structure to further pedestrian opportunities in the area.*

*The vicinity of the proposed residential land division currently has no safety concerns for any mode of transportation, and will not be adversely affected by the proposed land division and subsequent construction of 4 new homes and 4 ADUs. This evaluation factor is satisfied.*

*In summary, as analyzed above and as evidenced in the submitted TIS, with acceptable analyses, methodologies and conclusions, all of which PBOT staff supports, the applicant has clearly demonstrated that "the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area".*

PBOT has reviewed and concurs with the methodology, assumptions and conclusions made by the applicant's traffic consultant. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. Requirements for frontage improvements in N Edison Street and N Pittsburg Avenue are described in findings associated with chapter 33.654, below. 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:

<b>33.651 Water Service standard – See Exhibit E.3</b>
The Water Bureau has indicated that service is available to the site from the 12-inch CI water main in N Edison Street, as noted on page 2 of this report. The existing building is currently served by a 5/8-inch metered service from this main that may potentially be used for proposed Lot 4. The water service standards of 33.651 have been verified. This criterion is met.
<b>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1</b>
There is no public sanitary sewer available in N Edison Street to serve Lots 1-4. The nearest available sewer is located in N Edison Street at the intersection with N Pittsburg Avenue. The applicant has submitted a public works permit (16-128235 WE/#EP235) to extend the sanitary sewer in N Edison Street to serve Lots 1-4 and BES has granted conceptual approval as proposed. Therefore, prior to final plat approval, BES will require approved public works plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document. With the condition of approval described above, this criterion is met.
<b>33.653.020 &amp; .030 Stormwater Management criteria and standards – See Exhibits E.1</b>
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The

applicant submitted a Stormwater Report (Exhibit A.8) to address this criterion and has proposed the following stormwater management methods:

- **Public Street Improvements:** The Portland Bureau of Transportation has required improvements along the site's N Edison Street and N Pittsburg Avenue frontages (described later in this report). The applicant has submitted a public works permit (#EP235) for this work and BES finds that public stormwater facilities can be constructed. Therefore, prior to final plat approval, BES will require approved public works plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document.
- **Lots 1-4:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots 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.

The Bureau of Environmental Services finds the applicants method of stormwater management acceptable for the purposes of this review. Subject to the condition of approval described above, 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 at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

*No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject site is situated on a conventional 200-ft x 200-ft block (shape/orientation) and said traditional blocks (or lots) patterns exist throughout the broader area. Connectivity goals east of N Edison and north and south of N Pittsburg are generally satisfied.*

*Opportunities to further the aforementioned connectivity goals are available along the site's N Pittsburg frontage. However, although there is existing public r.o.w. along this site frontage, N Pittsburg is currently unimproved. Given the extreme topographic conditions of the abutting r.o.w., a partial standard street improvement would be very challenging if not impossible to construct. Instead, the applicant will be furthering the connectivity goals by constructing a public stairway along the site's N Pittsburg frontage. A similar public facility has been recently constructed further north along N Edison (at N Chicago). PBOT therefore has no concerns relative to connectivity or locations of rights-of-way associates with the proposed land division partition.*

For the reasons described above this criterion is met.

#### **33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment**

At this location, N Edison Street is improved with an approximate 32 foot paved roadway surface and pedestrian corridor that consists of a 4 foot planter, 6 foot sidewalk, and 2 foot setback to private property (4-6-2) within a 60 foot wide right-of-way. However, a majority of this frontage is actually a wide driveway that was used to serve several large bays within the existing structure. N Pittsburg Avenue is a 60 foot wide unimproved right-of-way at this location.

In reviewing this land division, Portland Transportation relies on accepted civil and traffic

engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that standard curb and sidewalk improvements must be made along the site's N Edison Street frontage. No improvements were required along the site's N Pittsburg Avenue frontage due to topographical constraints. However, the applicant voluntarily requested, and was approved for, a Public Works Alternative Review (16-103546 PW) to construct a stairway/pedestrian path. With those improvements, the proposed development can be safely served by the existing streets without having any significant impact on the level of service provided.

This criterion is met, with the condition that frontage improvements are made along the site's N Edison Street and N Pittsburg Avenue frontages.

#### **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, but will have to be met at the time that each of the proposed lots is developed.

#### **Future Development**

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- Design Overlay (d): New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review.

**Existing development that will remain after the land division.** The applicant is proposing to remove all of the existing structures on the site, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R1 zone. Therefore, 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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700	Title 31 Policy B-1 – Emergency Access

<a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 – Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	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 of structures and aerial fire department access roads. These requirements are based on the technical standards of Title 31 and 2014 Oregon Fire Code (Exhibit E.4).
- The applicant must meet the requirements of Urban Forestry for street tree planting in N Edison Street as a part of public improvements being reviewed through 16-123215 WT. Existing trees within the unimproved N Pittsburg Avenue right-of-way may be removed without mitigation as they are either nuisance species or below 12" DBH. These requirements are based on the standards of Title 11 and Title 33 (Exhibit E.6).

## CONCLUSIONS

The applicant has proposed a 4-lot subdivision, as shown on the attached preliminary plans (Exhibits C.1-10). 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: Lots, Land Suitability, and Services/Utilities. With conditions of approval that address these requirements this proposal can be approved.

## TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

**Approval** of a Preliminary Plan for a 4-lot subdivision that will result in four lots for attached houses, as illustrated with Exhibits C.1-10, subject to the following conditions:

### A. The following must occur prior to Final Plat approval:

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's N Edison Street and N Pittsburg Avenue frontages. 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.
2. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main in N Edison Street. The public sewer extension requires a Public Works Permit, which must be initiated and at a stage acceptable to BES prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
3. A finalized permit must be obtained for demolition of the existing building on the site and capping the existing sanitary sewer connection.

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

1. The minimum and maximum density for the lots in this land division are as follows:

Lot	Minimum Density	Maximum Density
1	1	2
2	2	2
3	2	2
4	2	2

2. Lots 2-4 must be developed with an Accessory Dwelling Unit.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.

**Procedural Information.** The application for this land use review was submitted on January 26, 2016, and was determined to be complete on Feb 16, 2016.

*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 January 26, 2016.

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: June 15, 2016.**

**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 recommendation 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 report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case.** This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at [www.portlandonline.com](http://www.portlandonline.com). On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

**Appeal of the decision.** The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

**Who can appeal:** You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$2,100.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

**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.**

Planner's Name: Sean Williams  
Date: March 25, 2016

**EXHIBITS**  
**NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Statement:
1. Narrative
  2. Transportation Impact Analysis
  3. Geotechnical Report




4. Landslide Hazard Analysis
5. Arborist Report
6. Fire Flow Availability Estimate
7. Neighborhood Contact
8. Stormwater Report
9. Site Photos
10. Public Works Alternative Review Decision
11. Driveway Design Exception Decision
- B. Zoning Map (attached):
- C. Plans & Drawings:
  1. Cover Sheet w/ Vicinity & Site Map
  2. Existing Conditions Plan
  3. Preliminary Subdivision Plat (attached)
  4. Preliminary Site Plan
  5. Preliminary Clearing, Grading, and Demolition Plan
  6. Preliminary Street Plan w/ Cross Section
  7. Preliminary Fire Marshall & Emergency Vehicle Access Plan
  8. Preliminary Utility Plan (attached) w/ Revision (2/25/16)
  9. Preliminary Tree Preservation & removal Plan
  10. Preliminary Tree Preservation & Removal Table
- D. Notification information:
  1. Request for response
  2. Posting letter sent to applicant
  3. Notice to be posted
  4. Applicant's statement certifying posting
  5. Mailing list
  6. 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 Bureau of Development Services
  6. Bureau of Parks, Forestry Division
  7. Life Safety Plans Examiner
- F. Letters: NONE
- G. Other:
  1. Original LUR Application
- H.

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

# ZONING



**This site lies within the:  
ST. JOHNS PLAN DISTRICT**

-  **Site**  
 **Recreational Trails**  
 **Historic Landmark**

File No.	LU 16-111348 LDS
1/4 Section	2121
Scale	1 inch = 200 feet
State Id	1N1W12BA 3900
Exhibit	B (Jan 27, 2016)





