



# 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

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### DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

**File No.:** 15-194216 ZC LDP  
(Hearings Office 4150028)

**Applicant:** Daniel J Heffernan, Daniel Heffernan Company  
2525 NE Halsey  
Portland, OR 97232

**Owner:** Blythswood Properties, LLC  
3911 NW Gordon Street  
Portland, OR 97232

**Hearings Officer:** Joe Turner

**Bureau of Development Services (BDS) Representative:** Shawn Burgett

**Site Address:** 3859 NW Thurman Street

**Legal Description:** LOT 35 TL 3400, BLYTHSWOOD

**Tax Account No.:** R084301700

**State ID No.:** 1N1E29CB 03400

**Quarter Section:** 2825

**Neighborhood:** Northwest District

**District Coalition:** Neighbors West/Northwest

**Plan District:** Northwest Hills - Forest Park

**Zoning:** Residential 10,000 (R10) w/ Residential 5,000 (R5) Comprehensive Plan Designation

**Land Use Review:** Type III, Zone Map Amendment (ZC), Land Division Partition (LDP) – ZC LDP

**BDS Staff Recommendation to Hearings Officer:** Approval with Conditions

**Public Hearing:** The hearing was opened at 9:00 a.m. on December 16, 2015, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 9:18 a.m. The applicant waived applicant's rights granted by ORS 197.763 (6)(e), if any, to an additional 7 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 Hearing:**

- Shawn Burgett
- Daniel J. Heffernan

**Proposal:** The applicant is proposing to partition the subject property into two parcels of approximately 7,894 (Parcel 1) and 7,328 (Parcel 2) square feet in size in conjunction with a Zone Map Amendment in conformance with the Comprehensive Plan from Residential 10,000 (R10) to Residential 5,000 (R5). The applicant is proposing to retain the existing house on Parcel 2 which abuts NW Thurman St. Parcel 1 will abut NW Gordon Street.

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. Therefore this land division is considered a partition.

**Approval Criteria:** In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- **33.855.050, Approval Criteria for Base Zone Changes.**
- **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 December 4, 2015, and to issue the following approval:

**Approval** of a Zoning Map Amendment, in compliance with the Comprehensive Plan Map designation, from R10 to R5;

**Approval** of a Preliminary Plan for a 2-parcel partition that will result in two lots, as illustrated with Exhibits C.1 and C.2, subject to the following conditions:

**A. Supplemental Plan.** Three copies of 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 surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for the vacant lot.
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.1 and C.2 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."
2. The applicant shall meet the street dedication requirements of the City Engineer for NW Gordon Street. The required right-of-way dedication must be shown on the final plat.
3. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2.

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

**Required Legal Documents**

1. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers, per Fire Bureau Appeal no 15-97. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.
2. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-5). Specifically, trees numbered 3, 11 and 20 are required to be preserved, with the root protection zones indicated on Exhibit C-2. Tree protection fencing is required along the root protection zone of each 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 zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant must meet the addressing requirements of the Fire Bureau. The location of the sign must be shown on the building permit.
3. The applicant will be required to meet the requirements identified through a Fire Code Appeal and install residential sprinklers in the new dwelling unit on Parcel 1.

**Basis for the Decision:** BDS Staff Report in LU 15-194216 ZC LDP, Exhibits A.1 through H.4, and the hearing testimony from those listed above.



Joe Turner, Hearings Officer

December 21, 2015

Date

**Application Determined Complete:** October 1, 2015  
**Report to Hearings Officer:** December 4, 2015  
**Decision Mailed:** December 21, 2015  
**Last Date to Appeal:** 4:30 p.m. on January 4, 2016  
**Effective Date (if no appeal):** January 5, 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 \$4,540 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.**

**Recording concurrent approvals.** The preliminary land division approval also includes concurrent approval of a Zone Map Amendment. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

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

The following approvals were necessary for the land division to be approved: Zone Map Amendment. These approval(s) expires if:

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

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

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

- A. Applicant's Statement
  - 1. Approval Criteria Narrative
  - 2. Transportation Analysis
  - 3. Landslide Hazard Study dated 5/26/15, revised 6/10/15
  - 4. Early Neighborhood notification documentation
  - 5. Arborist Report
  - 6. Fire Flow documentation
  - 7. Revised Landslide Hazard Study dated 5/26/15, revised 7/9/15
  - 8. Revised approval criteria narrative
  - 9. 60 day Extension to 120 day clock
  - 10. Stormwater Management report
- B. Zoning Map
  - 1. Existing Zoning
  - 2. Proposed Zoning
- C. Plans and Drawings
  - 1. Site Plan
  - 2. Tree Preservation/clearing and Grading Plan
  - 3. Utility Plan
- D. Notification information
  - 1. Request for response
  - 2. Posting letter sent to applicant dated 11/5/2015
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting dated 11/12/2015
  - 5. Mailing list dated 11/23/2015
  - 6. Mailing notice dated 11/23/2015
- E. Agency Responses
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Urban Forestry
  - 6. Site Development Review Section of Bureau of Development Services
  - 7. Life Safety Plans Examiner
  - 8. Police Bureau
- F. Letters (none received)
- G. Other
  - 1. Original LUR Application

2. Incomplete Letter dated 7/22/15
  3. Land Use History
  4. Pre-Application conference (14-255311 EA) memo
- H. Received in Hearings Office
1. Notice of Public Hearing -- Burgett, Shawn
  2. Staff Report -- Burgett, Shawn (**attached**)
  3. PowerPoint presentation -- Burgett, Shawn
  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

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

**CASE FILE:** LU 15-194216 ZC LDP  
 PC # 14-255311  
**REVIEW BY:** Hearings Officer  
**WHEN:** December 16, 2015 at 9am  
**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: SHAWN BURGETT / SHAWN.BURGETT@PORTLANDOREGON.GOV**

**GENERAL INFORMATION**

**Applicant:** Daniel J Heffernan, Daniel Heffernan Company  
 2525 NE Halsey  
 Portland, OR 97232

**Owner:** Blythswood Properties, LLC  
 3911 NW Gordon St  
 Portland, OR 97232

**Site Address:** 3859 NW THURMAN ST

**Legal Description:** LOT 35 TL 3400, BLYTHSWOOD  
**Tax Account No.:** R084301700  
**State ID No.:** 1N1E29CB 03400  
**Quarter Section:** 2825  
**Neighborhood:** Northwest District, contact John Bradley at 503-313-7574.  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.  
**Plan District:** Northwest Hills - Forest Park  
**Zoning:** Residential 10,000 (R10) w/ Residential 5,000 (R5) Comprehensive Plan Designation

**Case Type:** ZC LDP, Zone Map Amendment (ZC), Land Division Partition (LDP)  
**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 partition the subject property into two parcels of approximately 7,894 (Parcel 1) and 7,328 (Parcel 2) square feet in size in conjunction with a Zone Map Amendment in conformance with the Comprehensive Plan from Residential 10,000 (R10) to Residential 5,000 (R5). The applicant is proposing to retain the existing house on Parcel 2 which abuts NW Thurman St. Parcel 1 will abut NW Gordon St.

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. Therefore this land division is considered a partition.

**Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- **33.855.050, Approval Criteria for Base Zone Changes.**
- **Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

**FACTS**

**Site and Vicinity:** The site is approximately 15,800 square feet in size and located on a through lot with frontage NW Thurman St. and NW Gordon St. The existing single family home on the site is oriented toward NW Thurman St. The topography is relatively sloped, sloping downward toward the north end of the site. Development in the vicinity is primarily composed of single family homes.

**Infrastructure:**

- **Streets** - The site has approximately 127-feet of frontage on NW Thurman St. and approximately 126 feet of frontage on NW Gordon St. There is one driveway entering the site from NW Thurman Street that serves the existing attached garage. At this location, NW Thurman Street is classified as a City Bikeway, City walkway and a local service street for all modes in the Transportation System Plan (TSP). At this location, NW Thurman Street is improved with a 38-foot paved roadway surface and pedestrian corridor that consists of a 3-foot planter strip, 6-foot sidewalk, and 1-foot setback to private property (3-6-1) within a 50-foot right-of-way.

At this location, NW Gordon Street is classified as a Neighborhood Collector and a local service street for all modes in the Transportation System Plan (TSP). At this location, NW Gordon Street is improved with a 24-foot paved roadway surface and pedestrian corridor that consists of a 6-foot sidewalk, and 2-foot setback to private property (0-6-2) within a 40-foot right-of-way.

Tri-Met provides transit service approximately 730 feet southeast of the site on NW Thurman St. via Bus #15.

- **Water Service** - There is an existing 8-inch CI water main in NW Thurman Street. The existing house is served by a 5/8-inch metered service from this main. There is an existing 6-inch CI water main in NW Gordon Street that can serve future development on Parcel 1.
- **Sanitary Service** - There is an existing 10-inch vitrified clay public combination sewer main located in NW Thurman St. and an existing 8-inch CI water main in NW Gordon St..

**Zoning:** The R10 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing. The site has a Comprehensive Plan designation of Residential 5,000 (R5). The applicant is requesting a Zoning Map Amendment in conformance with this Comprehensive Plan designation.

The Northwest Hills plan district protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the Forest Park subdistrict contain unique, high quality resources and functional values that

require additional protection beyond that of the Environmental overlay zone. The plan district also promotes the orderly development of the Skyline subdistrict while assuring that adequate services are available to support development.

**Land Use History:** City records indicate there are no prior land use reviews for this site. The pre-application conference (EA 14-255311 PC) was held for this site on January 27, 2015.

**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 **November 23, 2015**. No written responses have been received from notified property owners in response to the proposal.

## ZONING CODE APPROVAL CRITERIA

### APPROVAL CRITERIA FOR ZONING MAP AMENDMENTS

#### 33.855.050 Approval Criteria for Base Zone Changes

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

**A. Compliance with the Comprehensive Plan Map.** The zone change is to a corresponding zone of the Comprehensive Plan Map.

1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.

**Findings:** The Comprehensive Plan designation is R5. This designation has only one corresponding zone, R5. Therefore, this criterion does not apply.

2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.

**Findings:** This site does not have a C, E, or I designation or a Buffer overlay, so this criterion does not apply.

3. When the zone change request is from a higher-density residential zone to a lower-density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.2 must be met.

**Findings:** The requested zone change is not from a higher density residential zone to a lower density residential zone or from the CM zone to the CS zone. Therefore, this criterion does not apply.

**B. Adequate public services.**

1. Adequacy of services applies only to the specific zone change site.
2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary

analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.

- a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.
- b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.
- c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.

**Findings:** The findings below for adequacy of services have been applied only to the specific zone change site. As indicated in the following summary of bureau responses, the Water Bureau, Police Bureau, Fire Bureau, Bureau of Environmental Services and Portland Bureau of Transportation have noted that adequate services are available for the anticipated level of use(s) that would be allowed to occur and had no conditions or additional requirements for approval of the requested Zoning Map Amendment. Therefore, in accordance with responses that are summarized below, this criterion has been met.

Water Bureau (Exhibit E.3)

The Water Bureau has indicated that service is available to the site from the 8-inch CI water main in NW Thurman St. and the 6-inch CI water main in NW Gordon St. The estimated static water pressure range for this location is 56 psi to 70 psi at the existing service elevation of 281-feet.

Police Bureau (Exhibit E.8)

The Police Bureau does not anticipate any impact in services as a result of the proposed zone change and therefore has no concerns.

Fire Bureau (Exhibit E.4)

The Fire Bureau has reviewed the applicant's Zoning Map Amendment request and has no issues with the ability of its bureau to serve the uses and development allowed under the proposed R5 zone.

Bureau of Environmental Services (Exhibit E.1)

The Bureau of Environmental Services (BES) has indicated that sanitary service is available to the site from the 10-inch vitrified clay public combination sewer main in NW Thurman St.

BES has also granted conceptual approval of the applicant's proposed method of sanitary service to Parcel 1. Given the topography of the site and issues with extending a public sanitary sewer in NW Gordon Street, BES determined it was not be feasible to construct a gravity-only private sewer for the proposed development; therefore, a private lift station will be necessary. The northern parcel will be served by a new connection to the 10-inch combination sewer in NW Thurman St. An easement will be required across Parcel 2 to provide access to the sewer in NW Thurman St. for Parcel 1.

BES has also granted conceptual approval of the applicant's proposed method of stormwater management, the applicant submitted a Presumptive Approach stormwater report from Humber Design Group (dated June 29, 2015). A landslide hazard study was provided by Earth Engineers Inc. (Revised July 9, 2015) which recommends against onsite infiltration of stormwater runoff from development of this site. The stormwater report proposes for runoff from the development to be discharged offsite to the curb in NW Gordon Street where stormwater will flow east to a storm pipe system that discharges to a drainageway after pollution reduction and flow and volume control standards are met with a flow-through planter sized per the Presumptive Approach. Discharge to this system has been approved by BES.

#### Bureau of Transportation Engineering and Development Review (Exhibit E.2)

The Development Review Section of the Portland Bureau of Transportation (PBOT) 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 has submitted a Transportation Impact Analysis and analysis of the Transportation Planning Rule (Exhibit A.2) to address this approval criterion. PBOT's Analysis is quoted, in part, as follows:

#### **Zone Change**

*Adequate Public Services (Zoning Code Chapter 33.855.050.B.2.c) "Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted (April, 2007). Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate."*

*The site is located on the north side of NW Thurman, east of the intersection of NW Thurman and NW Aspen Avenue. The lot has frontage on both NW Thurman and NW Gordon and is developed with one single-family home within the southern portion of the lot that is accessed via a driveway on NW Thurman. The applicant is seeking the Zone Map Amendment and Land Division in order to develop one additional home that will be accessed via NW Gordon. The existing home on the lot will be retained.*

*NW Gordon is classified as a Neighborhood Collector and a Local Service Street for all other transportation modes in the City's Transportation System Plan (TSP). The TSP classifies NW Thurman as a City Bikeway, a City Walkway, and a Local Service Street for all other transportation modes.*

*In terms of identified functions, the TSP states the following relative to the various classifications of NW Thurman and NW Gordon:*

- *Neighborhood Collectors are intended to serve as distributors of traffic from Major City Traffic Streets or District Collectors to Local Service Streets;*
- *All Neighborhood Collectors should be designed to operate as neighborhood streets rather than as regional arterials;*
- *City Bikeways are intended to serve the Central City, regional and town centers, station communities, and other employment, commercial, institutional, and recreational destinations;*
- *City Walkways are intended to provide safe, convenient, and attractive pedestrian access to activities along major streets and to recreation and institutions; provide connections between neighborhoods; and provide access to transit; and*

- *Local Streets are designed to complement planned land uses and reduce dependence on arterials for local circulation; they are multimodal, but are not intended for trucks (other than local deliveries) in residential areas.*

*The proposed zoned change will not conflict with the above referenced objectives for the surrounding street classifications.*

*The applicant's TIS included observational analysis, conducted during the morning and evening peak hours on May 5, 2015, of the following intersections:*

- *NW Thurman & NW 28<sup>th</sup>*
- *NW Thurman & NW Gordon*

*To evaluate the effects of the proposed zone change, the TIS included an analysis of a reasonable worst-case scenario for the proposed zoning district. Under the proposed R5 zone designation, the property could potentially be developed with up to three single-family detached dwellings (two are proposed). To estimate the trips that could be generated by the proposed zone change, the TIS utilized trip rates from the Trip Generation Manual, Ninth Edition, published by the Institute of Transportation Engineers (ITE). The trip calculations show that the reasonable worst-case scenario of three dwellings would generate a total of 2 trips in the AM peak hour and 3 trips in the PM peak hour with an expected daily total of 28 trips.*

*Based upon observational analysis conducted by the applicant's traffic engineer, the study intersections operate safely and efficiently in a manner that meets or exceeds City standards. The area surrounding the subject site is largely developed and cannot support any substantial growth that would meaningfully impact the operation of the intersections through the planning horizon (20 years). Based upon the minimal number of trips that could be added as the result of the proposed Zone Map Amendment under the reasonable worst-case scenario, 28 trips, the area intersections are projected to continue to operate acceptably throughout the planning horizon. Accordingly, no mitigation measures are necessary or warranted.*

*Portland Transportation can conclude that public services for transportation system facilities and capacity are capable of supporting the uses allowed by the proposed R5 zoning.*

***Transportation Planning Rule (TPR) 660-012-0060***

*The subject site is proposed to be zone R 5, which is consistent with the designation of the City's Comprehensive Plan. The proposed zone change does not require a revision to the Comprehensive Plan. The City has an acknowledged Transportation System Plan that considers development under that Comprehensive Plan designation. The subject site has been within the urban growth boundary for years and was not exempted from the rule as described in subsection (c) above. Accordingly, Section 9 of the TPR quoted above is satisfied and the City may find there is no "significant impact" and the TPR is satisfied. (Exhibit A-3)*

*More detailed analysis of street systems is also addressed below on pages 12-14 under Criterion K, Transportation Impacts.*

*In summary, as noted in findings above, the public services for this site have been found to be adequate. Therefore, this criterion is met.*

3. *Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.*

**Findings:** The request does not include rezoning the site to the IR zone, so this criterion does not apply.

**C. When the requested zone is IR, Institutional Residential.** In addition to the criteria listed in subsections A. and B. of this Section, a site being rezoned to IR, Institutional Residential must be under the control of an institution that is a participant in an approved impact mitigation plan or conditional use master plan that includes the site. A site will be considered under an institution's control when it is owned by the institution or when the institution holds a lease for use of the site that covers the next 20 years or more.

**Findings:** The request does not include rezoning the site to the IR zone, so this criterion does not apply.

**D. Location.** The site must be within the City's boundary of incorporation. See Section 33.855.080.

**Findings:** The site is within the incorporated boundaries of the City of Portland. Therefore, this criterion is met.

**APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES**

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640 - Streams, Springs, 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 33.610 contains the density and lot dimension requirements applicable in the R5 zone. The applicant is proposing to create two lots for detached houses. The minimum and maximum density for the site is as follows:

Since the site is located within a potential landslide hazard zone, no minimum density standards are applicable per 33.610.100.C.2

Maximum =  $15,800 \div 5,000$  square feet = 3.16 (which rounds down to a maximum of 3 parcels, per 33.930.020.B)

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
<b>R5 Zone</b>	3,000	8,500	36	50	30
Parcel 1	7,894 square feet		126 feet	63 feet	126 feet
Parcel 2	7,328 square feet		127 feet	57 feet	127 feet

\* 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.

The findings above show that the applicable density and lot dimension standards are met. Therefore 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.

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. 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. If the site is in an overlay zone that has additional environmental resource protection requirements, the tree plan must demonstrate that the benefits from trees are maximized for the site as a whole.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.2) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.5) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

Based on this information, 18 trees, which provide a total of 339 inches of tree diameter are subject to the preservation requirements of this chapter. Six of the trees are 20 or more inches in diameter. The proposed root protection zones for the trees to be retained will allow for the type of development anticipated in the R5 zone and will not conflict with any existing utility easements, proposed services or site grading.

The trees proposed for preservation are in good condition, include native/non-nuisance species.

Specifically, 50 percent of the trees that are 20 or more inches (trees numbered 3, 11 and 20) and 109 inches of the total tree diameter will be protected, so the proposal complies with:

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

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

In order to ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat. The acknowledgement must identify that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and the Arborist Report (Exhibit A.5).

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

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

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

In order to evaluate the proposal against this criteria, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibits A.3 and A.7). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is relatively low, given the soil composition, topography, and other risk factors. The Engineering Geologist (Exhibit A.7) stated in his conclusion "From an engineering geologic standpoint it is my opinion that the subject property is generally suitable for the lot partition and new proposed home site as tentatively planned, subject to recognition and acceptance of the landslide and seismic hazard risk as discussed above and subject to further engineering design work and review by others." The additional engineering design work and review by others noted by the Engineering Geologist will occur during the building permit review process. The proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site. In addition, the geotechnical evaluation has concurred that the applicant's proposed method of stormwater disposal at the site will not have a significant detrimental impact on the slope stability on or around the site. This conclusion was reached because stormwater will not be disposed on the site itself, it will be treated and discharged into an existing public storm sewer.

Site Development has concurred with the findings of the applicant's geotechnical report. 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, the site has steep grades (over 20%), and is located in the Potential Landslide Hazard area. Therefore, the clearing and grading associated with preparation of the lots must occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed.

A Preliminary Clearing and Grading Plan was submitted with the land division application (Exhibit C.2). In addition, the applicant submitted a Landslide Hazard Report (Exhibits A.3 and A.7) that describes how clearing and grading should occur on the site to minimize erosion risks. The applicant also provided a Tree Protection Plan (C.2) that designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved, and an arborist report (Exhibit A.5) that documents required Root Protection Zones (RPZ) for trees on the site. No grading will be allowed within the recommended root protection zone for any tree proposed for protection without written approval from a certified arborist. The Geotechnical report generally recommends that grading work occurring on the site be minimized

as much as possible. It is anticipated that the grading will primarily involve excavating for the foundations of the new houses and trenching for the utilities, but will not include mass grading of the site to alter the existing contours. The Geotechnical report noted (Exhibit A.7) that for site preparation "We envision that vegetation, roots, organic laden soils and any other deleterious soils will need to be stripped from beneath the proposed foundation areas;" adding; "Prior to installations of any foundation elements the site should be cut to final grade and all excavated material should be hauled off-site." The report went on to add "The foundation excavations should be observed by a representative of the Geotechnical Engineer prior to steel or concrete placement to assess that the foundation materials are capable of supporting the design loads and are consistent with the materials discussed in this report." Grading plans should be approved by a Geotechnical Engineer that conducted the study of the lots. All cuts, fills, and excavations for retaining structures of foundations should be examined by the Geotechnical Engineer for the specific lots.

Following the recommendations of the Landslide Hazard Study will help to limit erosion and sedimentation concerns. Stormwater runoff from the lots must be appropriately managed by flow through planters that must be designed for a 100 year storm events and site specific conditions will assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). In addition, no clearing and grading will be permitted within the root protection zones of the trees on the site that are required to be preserved. Preserving these trees will help limit erosion by assuring that the tree roots will help to hold the soil in place. Topsoil storage and general stockpiling on the site should only occur if it will not create any additional erosion concerns as recommended by the geotechnical engineer.

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

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

The site is currently in residential use, and there is no record of any other use in the past. As indicated above, the site contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. This criterion is met.

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

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

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

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

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded

maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

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

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

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

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

Street Capacity and Level of Service

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.

As indicated in the TIS (Exhibit A.2), the intersections of NW Thurman/NW 28<sup>th</sup> and NW Thurman/NW Gordon were observed to currently be operating at a LOS A during both the morning and evening peak periods. *The small number of trips that will be added into the transportation system as a result of the proposed development will not adversely impact the operations of area intersections.*

Vehicle Access and Loading

Currently, vehicle access is accommodated via an existing driveway on NW Thurman and access for the new northern lot will be accommodated via a new driveway on NW Gordon. Loading is expected to take place using the private driveways for individual homes. Loading activities associated with residential land uses are typically light and infrequent and there is ample space for these activities to occur. Accordingly, vehicle access and loading space at this location is sufficient to accommodate the existing uses in the vicinity in addition to the proposed development.

On-Street Parking Impacts

The parking demand that will be generated as a result of the construction of an additional single-family dwelling was estimated using rates from *Parking Generation*, Fourth Edition, published by ITE. Based upon this data, the projected peak parking demand for an additional single-family dwelling is two vehicles.

To adequately address this evaluation factor, the applicant's traffic engineer conducted a study during the early morning hours (approximately 5:00am on a weekday) to observe existing on-street parking demand in the vicinity. During the observation period, 16 vehicles were parking on NW Thurman between NW Gordon and NW Aspen and approximately 56 on-street spaces were available. Additionally, there were 12 vehicles parked on the south side of NW Gordon between NW Thurman and NW Alexandra with 27 spaces available.

The new lot is proposed to be developed with on-site parking to accommodate at least one vehicle. However, even if the additional two vehicle demand generated by the proposed development were to be accommodated on-street, there would still be an estimated supply of 80 on-street parking spaces available within the study area. Accordingly, there is ample on-street parking in the vicinity to accommodate the demand generated by the proposed use in addition to the existing uses in the area.

#### Transit Service/Facilities

Public transit is available to serve the proposed development with the nearest bus stop located at NW Thurman & NW Gordon approximately 730-ft from the site. There are continuous sidewalks that provide access from the subject property to the bus stop.

#### Neighborhood Impacts

Traffic volumes on area roadways and at area intersections are not expected to change significantly upon approval of the proposed land division. The additional site trips during the peak hours will have no noticeable impacts to immediate and adjacent neighborhoods. No significant operational or safety problems were identified. There is a sufficient on-street parking supply to accommodate the existing and proposed development in the area. Accordingly, the proposed land division will not result in adverse impacts on the immediate and adjacent neighborhoods.

#### Safety for All Modes

Traffic volumes on NW Thurman and NW Gordon are very low with travel speeds limited by existing speed humps, narrow roadways, and a 25 mph statutory residential speed limit. Due to these characteristics, bicycles can safely share the roadway with motorized traffic. Existing sidewalks on both NW Thurman and NW Gordon accommodate pedestrian circulation and when pedestrians need to cross streets, low vehicle speeds allow for safe crossing.

Additionally, the applicant's traffic engineer also reviewed crash data from the Oregon Department of Transportation's Crash Analysis and Reporting Unit for the most recent available five years (2009-2013). This data did not indicate that there are existing safety problems at any of the study intersections. There are no crash patterns or crash rates that are of concern.

At this location, NW Thurman is classified as a City Bikeway, a City Walkway, and a Local Service street for all other transportation modes in the City's Transportation System Plan (TSP). According to City database sources, the street is improved with 38-ft of paving in a 50-ft right-of-way (ROW). The site's frontage is improved with a 3-6-1 sidewalk configuration. For a site located in the R5 zone district along a City Walkway, the Pedestrian Design Guide recommends a 12-ft wide pedestrian corridor (0.5-ft curb/4-ft wide furnishing zone/6-ft wide sidewalk/1.5-ft wide frontage zone).

NW Gordon is classified as a Neighborhood Collector and a Local Service street for all other transportation modes in the City's TSP. According to City database sources, the street is improved with 24-ft of paving in a 40-ft right-of-way (ROW). The site's NW Gordon frontage is improved with a 0-6-2 sidewalk configuration. For a site located in the R5 zone district along a Local Service street, the Pedestrian Design Guide recommends an 11-ft wide pedestrian corridor (0.5-ft curb/4-ft wide furnishing zone/6-ft wide sidewalk/0.5-ft wide frontage zone).

In accordance with the Public Works Alternative (PWA) that was approved for this site (15-205389-PW), the existing conditions on NW Thurman can remain and no improvements or dedications will be required along this frontage. **However, a 3-ft dedication is required along NW Gordon to accommodate a future 11-ft wide sidewalk corridor. This dedication will be required as a condition of Final Plat approval.** In accordance with the approved PWA, PBOT may make additional requirements for sidewalk reconfiguration along the frontage of NW Gordon Street at the time of building permit application when there is a better understanding where a house and driveway will be located.

Concerning a proposed driveway on NW Gordon, the applicant's TIS demonstrated that sufficient sight distance for safe operations can be achieved with a driveway near the intersection of NW Gordon & NW Alexandria or immediately adjacent to the eastern property line. ***A professional Sight Distance Study will be required to support an alternative driveway location to demonstrate that adequate stopping sight distance can be achieved.*** This information would be required during the building permit submittal if applicable.

**RECOMMENDATION**

PBOT has no objections to the proposed Zone Change or Land Division, subject to the following conditions of approval:

The 3-ft required dedication necessary to accommodate the 11-ft wide standard sidewalk corridor on NW Gordon shall occur as part of the Final Plat phase of the Land Division Partition request.

Therefore, this criterion is 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><b>33.651 Water Service standard</b> - See Exhibit E.3 for detailed bureau comments.</p> <p>The Water Bureau has indicated that service is available to the site from the 8-inch CI water main in NW Thurman St. and the 6-inch CI water main in NW Gordon St., as noted on page 2 of this report.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> - See Exhibit E.1 for detailed comments.</p> <p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report.</p> <p>Due to issues with extending a public sanitary sewer in NW Gordon Street, the northern parcel will be served by a new connection to the 10-inch combined sewer in NW Thurman Street. A private sanitary lift station will be required due to topography of the site. The applicant should note that it must be approved by both BES Development Review and BDS Plumbing during review of building permit plans, and the sewer must transition to gravity flow prior to entering the right-of-way. In order to access the public sewer in NW Thurman Street, the applicant must provide legal access across the southern parcel. Access is typically provided through a private sewer easement. BES will review the easement to ensure that a route of sewer service has been provided for the benefit of the northern parcel. Per the BDS <u>Private Sewer Easements Code Guide</u> private sewer easements should be a minimum of 10 feet in width unless an alternative design is approved through a Plumbing Code Appeal.</p> <p>As a condition of approval, the final plat must show and label a private sanitary sewer easement over the relevant portions of the southern parcel for the benefit of the northern parcel.</p> <p>The sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> - See Exhibits E.1</p> <p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p>

The applicant has proposed the following stormwater management methods

**Parcel 1:** The applicant submitted a Presumptive Approach stormwater report from Humber Design Group (dated June 29, 2015, Exhibit A.10). A landslide hazard study was provided by Earth Engineers Inc. (Revised July 9, 2015) which recommends against onsite infiltration of stormwater runoff from development of this site. The stormwater report proposes for runoff from the development to be discharged offsite to the curb in NW Gordon Street where stormwater will flow east to a storm pipe system that discharges to a drainageway after pollution reduction and flow and volume control standards are met with a flow-through planter sized per the Presumptive Approach. Discharge to this system has been approved by BES.

**Parcel 2 (the lot with the existing house):** The applicant coordinated with BES regarding required modifications to the storm system for the existing house on the southern parcel. City plumbing permit #89262 shows that the house was previously connected to the public combined sewer in NW Thurman. Based on site conditions and constraints and slope stability concerns, the applicant has reconnected the roof downspouts on the existing house to the public combined sewer in NW Thurman, as approved by BES. No additional information is required at this time.

### **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. Neither of the spacing requirements for public through streets or pedestrian connections are met in this area. Given the topography of the area, the serpentine nature of the streets, the irregularly shaped lots, lack of block pattern and proximity to Forest Park, it is unreasonable to expect that the above referenced connectivity goals more directly established in other, flatter and more conventionally outlined parts of the city, can be achieved in the subject neighborhood, and more applicably, in relation to this lot partition request. PBOT has no concerns relative to connectivity or locations of rights-of-way associated with the proposed land division partition

For the reasons 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 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.

## **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.

**Existing development that will remain after the land division.** The existing development on the site will remain and be located on Parcel 2. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the

regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be approximately 16 feet from the new rear property lines. 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 survey showing the location of the existing building relative to the adjacent new lot lines.

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.

<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 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
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 20 – Street Trees and other Public 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 addressing requirements; meeting fire apparatus access standards, including aerial access fire, fire flow and dead end access roads requirements. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1. It should be noted that the applicant provided Fire Flow documentation from the Water Bureau (exhibit A.6) that indicated the site has an estimated fire flow of 1,500 Gallons per Minute (GPM). The subject site is located in the Wildfire Hazard Zone based on the City’s GIS Mapping data, which requires a minimum fire flow of 1,750 GPM (exhibit E.4). As an exception, a



reduction in required fire flow of 50 percent is allowed when the building is provided with an automatic sprinkler system.

The applicant was granted a fire code appeal (#15-97, Exhibit E.4) that will require automatic sprinklers in the new home on Parcel 1 as an alternative to meeting the Fire Bureau's dead-end access road requirements at this site. As a condition of approval, the applicant will be required to record an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 1.

Since sprinklers are required per the approved Fire Code appeal, the applicant can apply the exception to the minimum fire flow standards in Wild fire Hazard zones since the estimated gallons per minute (1,500 GPM) of fire flow at the site exceeds 50 percent of the minimum GPM required.

## **CONCLUSIONS**

The applicant has proposed a Zoning Map Amendment, in conformance with the Comprehensive Plan Map, from R10 to R5 in conjunction with a 2-parcel partition to create lots for detached housing, as shown on the attached preliminary plans (Exhibits C.1-C.2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

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 Zoning Map Amendment, in compliance with the Comprehensive Plan Map designation, from R10 to R5;

**Approval** of a Preliminary Plan for a 2-parcel partition that will result in two lots, as illustrated with Exhibits C.1 and C.2, subject to the following conditions:

**A. Supplemental Plan.** Three copies of 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 surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for the vacant lot.
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.1 and C.2 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."
2. The applicant shall meet the street dedication requirements of the City Engineer for NW Gordon St. The required right-of-way dedication must be shown on the final plat.

3. A private sanitary sewer easement, for the benefit of Parcel 1, shall be shown and labeled over the relevant portions of Parcel 2.

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

**Required Legal Documents**

1. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers, per Fire Bureau Appeal no 15-97. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.
2. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcel 1 and 2. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on and recorded with the final plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-5). Specifically, trees numbered 3, 11 and 20 are required to be preserved, with the root protection zones indicated on Exhibit C-2. Tree protection fencing is required along the root protection zone of each 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 zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant must meet the addressing requirements of the Fire Bureau. The location of the sign must be shown on the building permit.
3. The applicant will be required to meet the requirements identified through a Fire Code Appeal and install residential sprinklers in the new dwelling unit on Parcel 1.

**Procedural Information.** The application for this land use review was submitted on June 30, 2015, and was determined to be complete on October 1, 2015.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on June 30, 2015.

*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 extended the 120-day review period for 60 days (exhibit A-9). **The 120 days will expire on March 29, 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 \$4,540 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.**

**Recording concurrent approvals.** The preliminary land division approval also includes concurrent approval of a Zone Map Amendment. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

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

The following approvals were necessary for the land division to be approved: Zone Map Amendment. These approval(s) expires if:

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

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

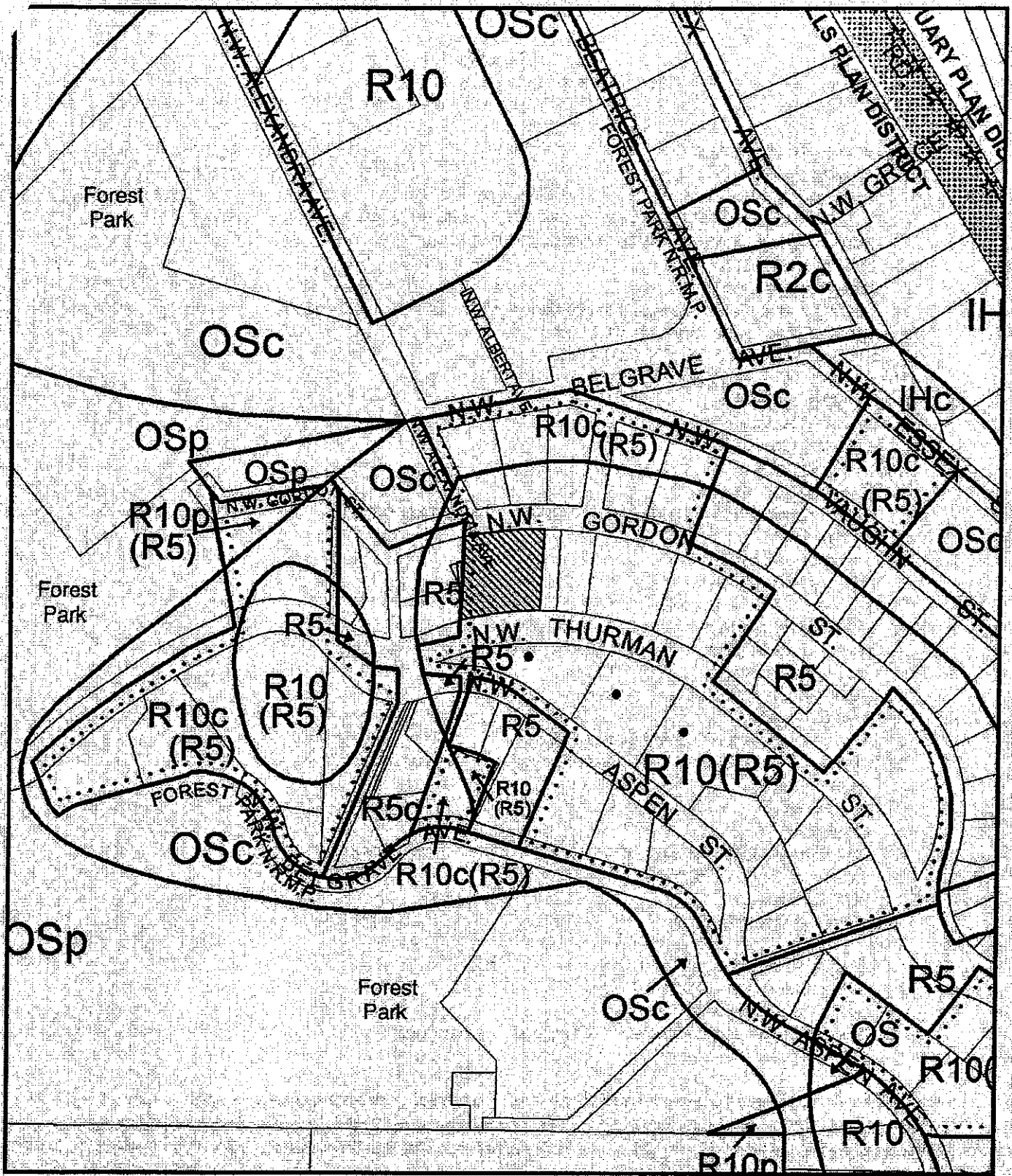
Planner's Name: Shawn Burgett

Date: December 4, 2015

**EXHIBITS**  
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Approval Criteria Narrative
  - 2. Transportation Analysis
  - 3. Landslide Hazard Study dated 5/26/15, revised 6/10/15
  - 4. Early Neighborhood notification documentation
  - 5. Arborist Report
  - 6. Fire Flow documentation
  - 7. Revised Landslide Hazard Study dated 5/26/15, revised 7/9/15
  - 8. Revised approval criteria narrative
  - 9. 60 day Extension to 120 day clock
  - 10. Stormwater Management report
- B. Zoning Map (attached):
  - 1. Existing Zoning
  - 2. Proposed Zoning
- C. Plans & Drawings:
  - 1. Site Plan (attached)
  - 2. Tree Preservation/clearing and Grading Plan (attached)
  - 3. Utility Plan
- D. Notification information:
  - 1. Request for response
  - 2. Posting letter sent to applicant dated 11/5/2015
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting dated 11/12/2015
  - 5. Mailing list dated 11/23/2015
  - 6. Mailing notice dated 11/23/2015
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Urban Forestry
  - 6. Site Development Review Section of Bureau of Development Services
  - 7. Life Safety Plans Examiner
  - 8. Police Bureau
- F. Letters (none received)
- G. Other:
  - 1. Original LUR Application
  - 2. Incomplete Letter dated 7/22/15
  - 3. Land Use History
  - 4. Pre-Application conference (14-255311 EA) memo

**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

-  Site
-  Also Owned
-  Historic Landmark
-  Recreational Trail

This site lies within the:  
**NORTHWEST HILLS PLAN DISTRICT**  
**FOREST PARK SUBDISTRICT**



File No. LU 15-194216 ZC, LDP  
 1/4 Section 2825  
 Scale 1 inch = 200 feet  
 State Id 1N1E29CB 3400  
 Exhibit B (July 1, 2015)





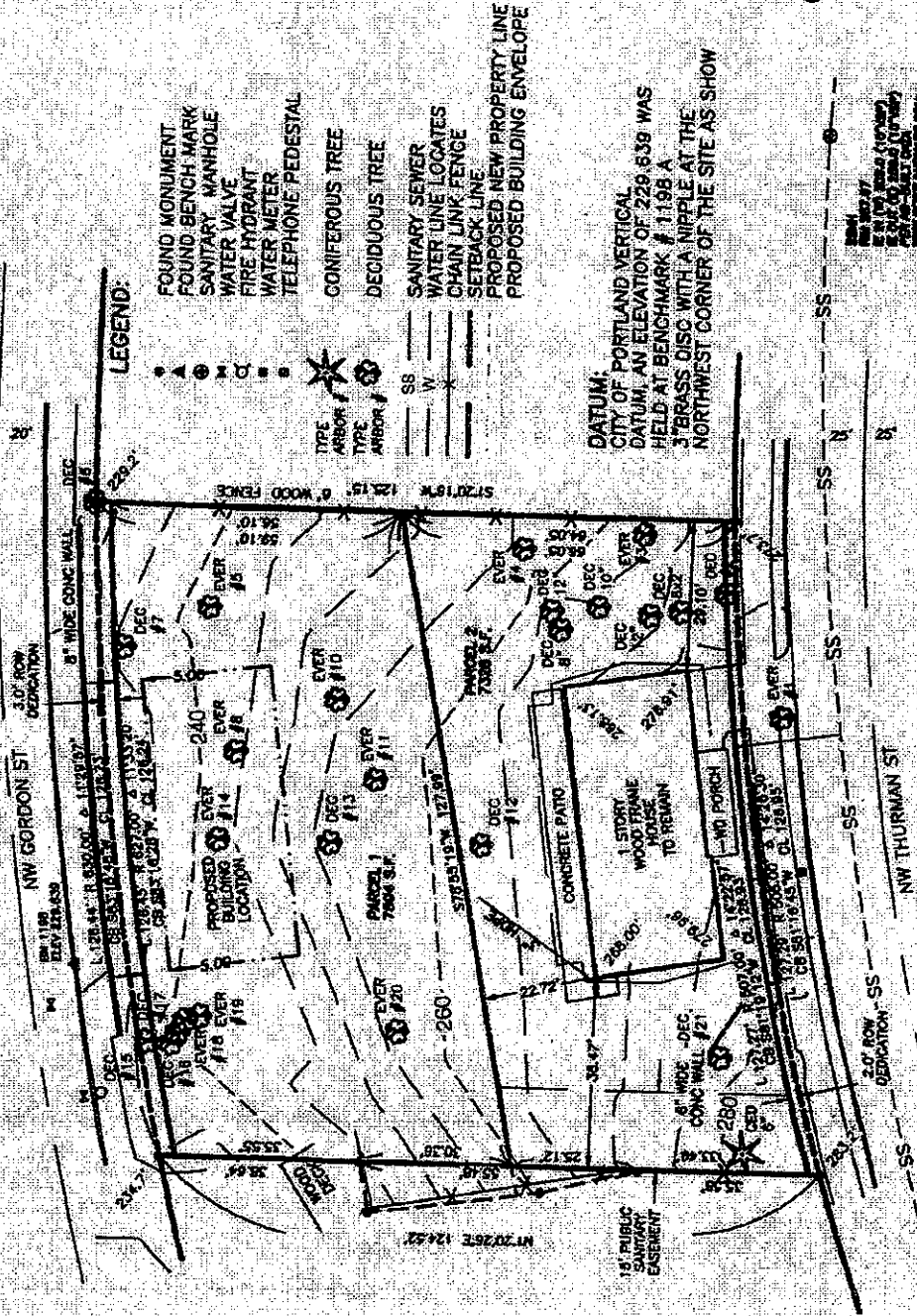
**EXISTING CONDITIONS AND PRELIMINARY PLAT  
FOR AN APPLICATION FOR REZONE AND LAND DIVISION  
3859 NW THURMAN STREET, PORTLAND, OREGON  
SW 1/4 SECTION 29, T1N, R1E, W1M., MULTNOMAH COUNTY, OREGON**

**SURVEYED FOR:**  
BLATHSWOOD PROPERTIES, LLC  
3811 NW GORDON STREET  
PORTLAND, OREGON 97210

**bluedot  
group**

land surveying & mapping  
11700 SW 67th ave  
portland, or 97223  
v. 503.624.0108  
f. 503.624.9058

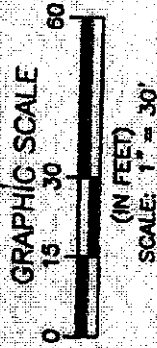
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Robert Chennel*  
OREGON  
JULY 14, 1998  
ROBERT C. LENNOX  
2886  
RENEWAL: 12-31-16



**LEGEND:**

- FOUND MONUMENT
- FOUND BENCH MARK
- ⊕ SANITARY MANHOLE
- ⊕ WATER VALVE
- ⊕ FIRE HYDRANT
- ⊕ WATER METER
- ⊕ TELEPHONE PEDESTAL
- ★ CONFEROUS TREE
- DECIDUOUS TREE
- SS SANITARY SEWER
- W WATER LINE LOCATES
- CHAIN LINK FENCE
- SETBACK LINE
- PROPOSED NEW PROPERTY LINE
- PROPOSED BUILDING ENVELOPE

**DATUM:**  
CITY OF PORTLAND VERTICAL  
DATUM, AN ELEVATION OF 239.639 WAS  
HELD AT BENCHMARK # 1198 A  
3 BRASS DISC WITH A NIPPLE AT THE  
NORTHWEST CORNER OF THE SITE AS SHOWN



**NARRATIVE:**  
THE PURPOSE OF THIS SURVEY IS:  
TO RESOLVE AND PARTITION THE BOUNDARY OF THAT  
PARCEL OF LAND DESCRIBED IN DEED RECORDED  
OCTOBER 25, 2007 AS DOCUMENT NO. 2007-166809

**BASIS OF BEARINGS:**  
THE BASIS OF BEARING IS THE EAST LINE OF THE TRACT  
FROM MONUMENT NUMBER 26 TO MONUMENT NUMBER 11,  
PER MULTNOMAH COUNTY SURVEY NUMBER 63297

**REFERENCE DOCUMENTS:**  
MULTNOMAH COUNTY SURVEY NO. 63297  
MULTNOMAH COUNTY DOCUMENT NO. 2007-166809

CASE NO 15-194216  
EXHIBIT C1





