



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

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Date: August 23, 2016
To: Interested Person
From: Sean Williams, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 15-279846 LDP

GENERAL INFORMATION

Applicant: Bruce Goldson
Theta LLC
PO Box 1345
Lake Oswego, OR 97034

Owner(s): Cindy J Fry / Leslie A Brooks / Laurie M Zanni
18187 Siena Drive
Lake Oswego, OR 97034

Contract Purchaser: Don Schollander
Schollander Development
5285 SW Meadows Drive
Lake Oswego, OR 97035

Site Address: SW Brugger Street approx. 150-feet west of SW 55th Avenue

Legal Description: TL 3200 0.58 ACRES, SECTION 30 1S 1E
Tax Account No.: R991302400
State ID No.: 1S1E30BD 03200
Quarter Section: 3923
Neighborhood: Ashcreek, contact Jack Klinker at 503-246-7872.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Syla Bogert at 503-823-4592.
Plan District: None
Other Designations: Potential Landslide Hazard Area
Zoning: Residential 7,000 (R7)
Case Type: Land Division Partition (LDP)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicants are proposing to partition the subject property into three equally sized parcels of approximately 8,294 square feet for detached houses. A storm sewer main is proposed to be extended within SW Brugger to serve the stormwater management needs of the lots. Three non-exempt trees will be retained for compliance with preservation standards. Various other exempt trees will be retained at the time of development.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010). ORS 92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 3 units of land. Therefore this land division is considered a partition.

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

FACTS

Site and Vicinity: The site is located on the south side of SW Brugger Street approximately 145 feet west of SW 55th Avenue. The site is void of any improvements and is densely vegetated. The surrounding vicinity is primarily composed of single family development.

Infrastructure:

- **Streets** – The site has approximately 185 feet of frontage on SW Brugger Street. At this location, SW Brugger Street is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 265 feet south of the site on SW Taylors Ferry Road via Bus #43. At this location, SW Brugger Street is a 50-foot wide right-of-way with center strip paving lacking curbs or sidewalks.
- **Water Service** – There is an existing 4-inch CI water main in SW Brugger Street.
- **Sanitary Service** - There is an existing 8-inch sanitary sewer main in SW Brugger Street.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

Zoning: The R7 zone 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.

Land Use History: City records indicate the following prior land use reviews for this site:

- **MP 110-89:** Approval of a 2-lot partition. The land division site is Parcel 2 of this minor partition (survey #51443). Parcel 1 is addressed 5510 SW Brugger Street. There are no conditions of approval that impact this proposal.

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 **February 5, 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.

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.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
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 RF through R5 zones. The applicant is proposing to create 3 standard lots for detached houses. The minimum and maximum density is as follows:

Minimum = There is no minimum density as the entire site is located within the potential landslide hazard area (33.610.100).

Maximum = $25,251 \div 7,000$ square feet = 3.60 (which rounds down to a maximum of 3 lots, per 33.930.020.B)

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R7 Zone	4,200	12,000	40	55	30
Parcel 1	8,294		61.9	134	61.9
Parcel 2	8,294		61.9	134	61.9
Parcel 3	8,294		61.9	134	61.9

* 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 Topographic/Site Survey (Exhibit C.1) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.2) 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, 12 trees, which provide a total of 136 inches of tree diameter, are subject to the preservation requirements of this chapter. The applicant has proposed to retain tree #29 (20" orchard apple), 30 (13" sycamore maple), and 34 (16" Douglas fir). This proposal complies with Option 1 of the Minimum Tree Preservation Standards, which requires preservation of all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site, as the applicant is retaining the only 20" non-exempt tree and 36 percent of the total non-exempt tree diameter on site.

The trees proposed for preservation are in good condition, include native and non-nuisance species, and the only non-exempt tree that is 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 R7 zone and will not conflict with any existing utility easements, proposed services or site grading. In addition, the remaining non-exempt trees are either in a location that would conflict with future development or are low value fruit trees that are in fair to poor condition. Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

The applicant is also proposing to retain 3 exempt nuisance trees (#31, 32, and 32.1), one exempt tree (#36) within the SW Brugger Street right-of-way, and 2 trees (#25 and 25.1) on an adjacent site that are within 15 feet of potential disturbance area on Parcels 2 and 3. In order to protect the 3 nuisance species and 3 off-site trees from construction impacts, the arborist has proposed tree protection fencing depicted on the 3 Lot Partition Plan (Exhibit C.3). Installation of protection fencing for tree #36 shall be at the discretion of Urban Forestry as it is located in the right-of-way.

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 1-3 must be carried out in conformance with the 3 Lot Partition Plan (Exhibit C.3) and the Arborist Report (Exhibit A.2).

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 Landslide Hazard Report, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.3). 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 applicant's geotechnical engineer indicated that a residential structure with poured footings would likely be stable and there are no preferred locations for enhanced stability due in part to the shallow slopes encountered on the site.

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 a public storm sewer. Site Development has concurred with the findings of the applicant's geotechnical report. Therefore, 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 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 not submitted with the land division application. However, the applicant did submit a Landslide Hazard Report (Exhibit A.3), a 3 Lot Partition Plan (Exhibit C.3) 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.2) that further discusses grading on the site.

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. Stormwater runoff from the lots will be appropriately managed via treatment and discharge into a public storm sewer to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report). In addition, no clearing and grading will be permitted within the root protection 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 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 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 vacant, and there is no record of any other use in the past. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. 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. PBOT has provided the following findings (see Exhibit E.2):

The applicant is proposing this partition in order to develop the subject site with three detached single-family homes. Based upon trip generation estimates, obtained from the Institute of Transportation Engineers' (ITE), Trip Generation Manual, 9th Edition, the new homes are projected to generate three additional trips during both the morning and evening peak hours (30 additional trips in total each day). The minimal 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.

According to the submitted plan, each new lot will have sufficient space to accommodate a minimum of two on-site parking spaces. Consistent with ITE's Parking Generation Manual, 4th Edition, the average parking demand for a single-family detached dwelling unit is 2 spaces per unit. Accordingly, the lots are proposed to be developed in a manner that is expected to accommodate the estimated parking demand generated by the proposed development. The project is not anticipated to negatively impact on-street parking in this area.

There are existing transit facilities in the vicinity and the nearest bus stop is located at SW Taylors Ferry & SW 55th (TriMet Route # 43) approximately 700-ft from the site. The proposed partition will not have any effect on transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

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

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

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

33.651 Water Service standard – See Exhibit E.3
The Water Bureau has indicated that service is available to the site from the 4-inch CI water main in SW Brugger Street, as noted on page 2 of this report. The water service standards of 33.651 have been verified. This criterion is met.
33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1
The Bureau of Environmental Services has indicated that service is available to the site from the 8-inch sanitary sewer main in SW Brugger Street, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified. This criterion is met.
33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1
No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant has submitted a Landslide Hazard Report (Exhibit A.3) and Performance Approach stormwater report (Exhibit A.5) to address this criterion and has proposed the following stormwater management methods:
<ul style="list-style-type: none"> • Lots 1-3: Submitted reports indicate poor infiltration on the site and note that soils would not be able to appropriately handle on-site stormwater facilities. In addition,

there is no public storm-only sewer currently available to this property. Therefore, the applicant has proposed to extend a storm sewer main in SW Brugger Street to serve this site from the nearest storm manhole in SW 54th Avenue. The applicant has received concept design approval of a public works permit (#EP252) to extend the storm sewer main in SW Brugger Street. Prior to final plat approval, the applicant must, through a Public Works Permit, submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.

Stormwater from these lots will be directed into flow-through planters that remove pollutants and suspended solids. The water will drain from the planters to the new storm sewer main in SW Brugger Street. BES found that the stormwater report submitted by the applicant did not accurately size the planters for the individual parcels. Therefore, prior to final plat approval, BES requests a revised stormwater report and supplemental plan demonstrating appropriately sized stormwater facilities for each parcel.

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):

The site is located on the south side of SW Brugger approximately 200-ft west of SW 55th. Accordingly, the site's location generally meets the City's spacing goals. PBOT has no concerns regarding connectivity in association with the proposed 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

At this location, SW Brugger Street is a 50-foot wide right-of-way with center strip paving lacking curbs or sidewalks. For a Local Service street, abutting an R7 zone site, the City's public right-of-way document requires a 54-foot wide right-of-way to accommodate a 26-foot wide paved roadway (parking on both sides), new curb 13-feet from right-of-way centerline, and 14-foot wide pedestrian corridors consisting of a 0.5-foot curb, 8-foot public stormwater facility, 5-foot sidewalk, and 0.5-foot frontage zone.

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, the applicant was granted approval of a Public Works Alternative Review (15-247397-PW) to not construct the standard frontage improvements noted above in relation to the proposed development. This decision was granted subject to the applicant recording street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) and dedicating 2-feet of right-of-way along the frontage of the site to accommodate future improvements.

This criterion is met, with the condition that the required right-of-way dedication is shown on the Final Plat and the required waivers are signed prior to Final Plat approval.

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.

Existing development that will remain after the land division. The site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R7 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.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire flow/water supply, fire hydrant spacing, addressing, 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 at the time of development of the new parcels. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 3 parcel partition, as shown on the attached preliminary plan (Exhibit C.3). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: tree preservation, stormwater management, and width and elements of the right-of-way. With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 3-parcel partition that will result in 3 standard lots, as illustrated with Exhibit C.3, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for BES and Fire Bureau 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 nearest fire hydrant;
- The proposed general location of future building footprints and appropriately sized stormwater facilities, per the requirements of condition C.3, for each parcel;
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SW Brugger Street. The required right-of-way dedication must be shown on the final plat.
2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

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

1. The applicant shall complete street and storm sewer waivers of remonstrance (for future street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.
2. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public storm sewer main in SW Brugger Street. The public storm 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 submit approved engineered plans, provide a financial guarantee, pay all outstanding fees, and provide a signed permit document.
3. The applicant shall meet the requirements of the Bureau of Environmental Services for providing a stormwater report demonstrating appropriately sized stormwater facilities for each Parcel.
4. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.
5. The applicant shall meet the requirements of the Fire Bureau regarding fire hydrant spacing. If existing hydrants do not meet applicable Fire Code spacing requirements, the applicant shall be required to install a new fire hydrant. The applicant must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.

6. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Parcels 1-3. 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 1-3 shall be in conformance with the 3 lot partition Plan (Exhibit C.3) and the applicant's arborist report (Exhibit A.2). Specifically, trees numbered 29 (20" orchard apple), 30 (13" sycamore maple), and 34 (16" Douglas fir) are required to be preserved, with the root protection zones indicated on Exhibit C.3. Tree protection fencing shall be installed, per Exhibit C.3, for trees numbered 31, 32, and 32.1 that are voluntarily being preserved and trees numbered 25 and 25.1 that are located on an adjacent site. Installation of protection fencing for tree number 36 shall be at the discretion of Urban Forestry as it is located in the right-of-way.

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/her supervision.

2. 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.
3. The applicant must meet the requirements of Urban Forestry for planting street trees in the SW Brugger Street right-of-way adjacent to Parcels 1-3. Street trees must be chosen from the City's approved street tree list.

Staff Planner: Sean Williams

Decision rendered by:  **on August 19, 2016**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 23, 2016

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 21, 2015, and was determined to be complete on January 28, 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 December 21, 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 requested the 120-day review period be extended, as stated with Exhibit A.7. Unless further extended by the applicant, **the 120 days will expire on: August 25, 2016.**

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

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

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

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on September 6, 2016** at 1900 SW Fourth Ave. 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 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us .

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

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

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City’s final approval of the preliminary plan. This final

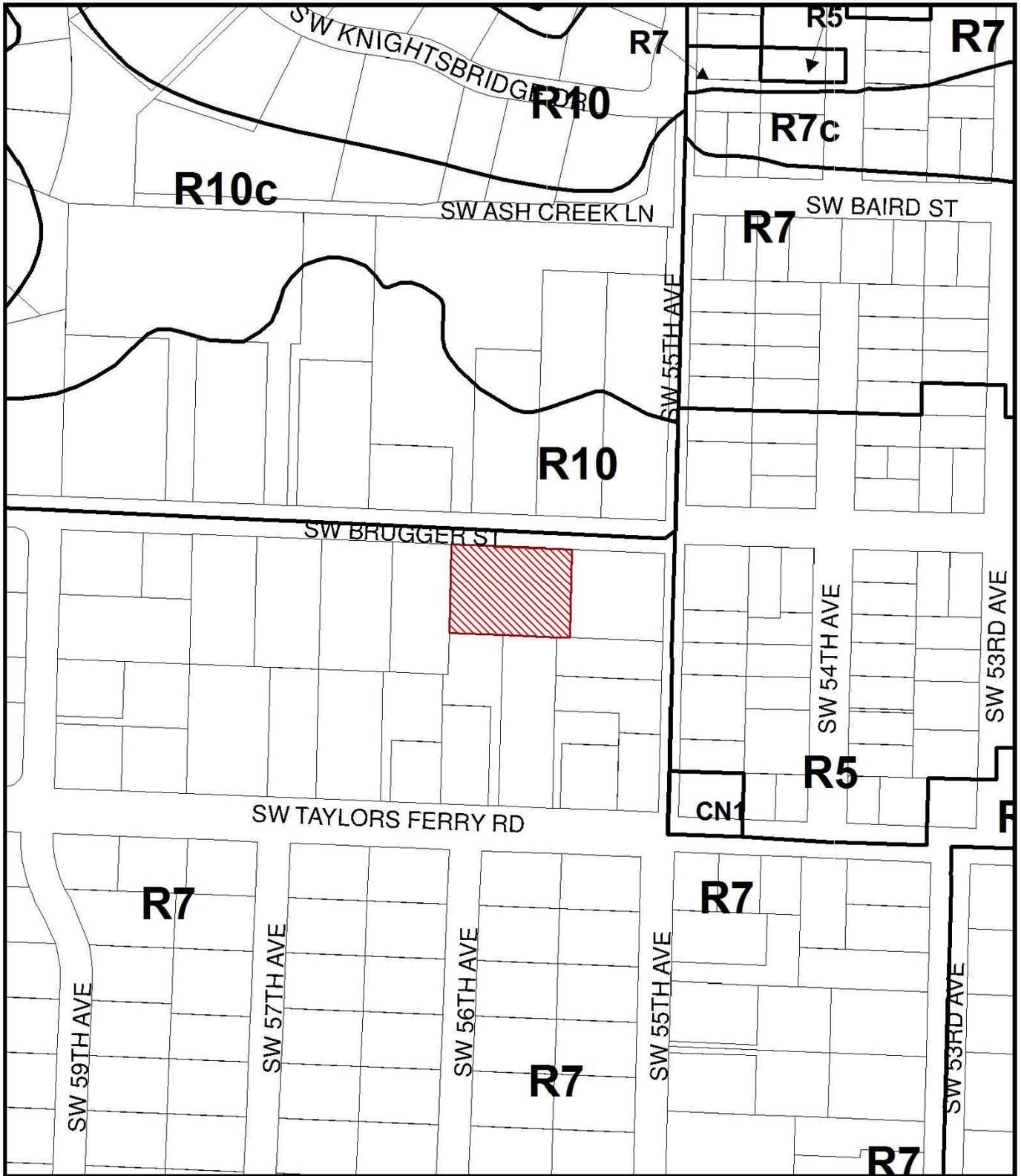
plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Narrative
 - 2. Arborist Report (12/15/15 & 1/12/16)
 - 3. Landslide Hazard Report
 - 4. Traffic Impact Narrative
 - 5. Presumptive Approach Stormwater Report
 - 6. Neighborhood Contact
 - 7. Request for Extension of 120-Day Review Period (4/6/16 & 6/12/16)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Topographic/Site Survey
 - 2. Storm Drainage Extension Plan
 - 3. 3 Lot Partition Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services w/ Addendum
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS w/ Addendum
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter

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



ZONING

 Site



File No. LU 15-279846 LDP
 1/4 Section 3923
 Scale 1 inch = 200 feet
 State Id 1S1E30BD 3200
 Exhibit B (Dec 24, 2015)

