



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: May 7, 2008
To: Interested Person
From: Mieke Stekelenburg, Land Use Services
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NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 07-180140 LDP

GENERAL INFORMATION

Applicant: Oscar Griffin
At Home Creations, Ltd
1835 NE Fremont
Portland OR 97212

Site Address: 15526 SE POWELL BLVD
Legal Description: TL 9700 0.33 ACRES, SECTION 12 1 S 2 E
Tax Account No.: R992120750
State ID No.: 1S2E12DB 09700
Quarter Section: 3446

Neighborhood: Centennial, contact Louise Cody at 503-252-4302.
Business District: Midway, contact Donna Dionne at 503-252-2017.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.
Plan District: Johnson Creek Basin
Zoning: R5a
Case Type: LDP
Procedure: Type I, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing a 2-parcel partition on a site that contains approximately 15,278 square feet and has frontage on both SE Powell Blvd. and SE Rhone Court. The land division will result in two standard parcels. Parcel 1 will contain approximately 7,580 square feet of site area, front on SE Powell Blvd. and retain the existing house. Parcel 2 will contain approximately 5,006 square feet of site area and provide a vacant site for single family detached development. Tree preservation standards apply.

The applicant will be required to dedicate approximately 26' of site area fronting on SE Rhone Court to complete the existing partial turnaround. The turnaround will be improved with paving, curbs, sidewalks and a stormwater management facility. Stormwater for Parcel

2 will be disposed on site through a soakage trench. S.E. Powell Blvd. is owned and maintained by the State of Oregon. The State of Oregon will require a 12' wide dedication along the portion of the property fronting on SE Powell Blvd at the time of final plat.

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

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in section 33.660, Reviews in Open Space and Residential Zones and in 33.537, standards for the Johnson Creek Plan District.

ANALYSIS

Site and Vicinity: The existing site is a through lot with frontage on both SE Powell Boulevard and SE Rhone Court. SE Powell Boulevard is also Highway 26, which is a busy, two-lane Major City Traffic and Transit Access street. SE Rhone Court is a dead-end, local service street that terminates at a partial turnaround along the rear of the site. Access to the existing house is from a circular driveway off of SE Powell.

The site is relatively flat and contains the existing A-frame house, a patio, a large back lawn area and several trees. Development in the surrounding area is mostly single-dwelling residential as well as some multi-dwelling housing.

Zoning: The R5 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 "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is not using any of the provisions of the "a" overlay.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on March 12, 2008.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.

2. Neighborhood Review: One written response has been received from the Neighborhood Association in response to the proposal. The Centennial Neighborhood Association responded with no objections to the proposal, but encouraged the applicant to voluntarily

preserve as many trees as possible on the site. Tree preservation will be discussed in detail later in this report.

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.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. 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 applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Not applicable - No tracts or easements have been proposed or will be required.
I	33.639	Solar Access	Not Applicable - 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	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

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 standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = $(12,586 \text{ square feet} * .80) \div 5,000 \text{ square feet} = 2.01$ (which rounds down to a minimum of 2 lots, per 33.930.020.A)

Maximum = $12,586 \text{ square feet} \div 5,000 \text{ square feet} = 2.51$ (which rounds down to a maximum of 2 lots, per 33.930.020.B)

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1.

The applicant is proposing 2 lots. The density standards are therefore met.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Table 610-2 of the Zoning Code):

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2
Minimum Lot Area	3,000 sq. ft.	7,580 sq.	5,006 sq.
Maximum Lot Area	8,500 sq. ft.	ft.	ft.
Minimum Lot Width*	36 ft.	76 ft.	71 ft.
Minimum Lot Depth	50 ft.	106 ft.	70 ft.
Minimum Front Lot Line	30 ft.	76 ft.	71 ft.

* Width is measured at the minimum front building setback line

The findings above describe how the applicable lot standards are met. This criterion is therefore met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A-2). Some trees have been exempted by the arborist because they are either too small, unhealthy, a nuisance species, located partially off the property or located within 10 feet of an existing structure to remain on the property. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
730	Norway Maple	11	No	Yes	No	
732	Sitka Spruce	26	Yes	Yes	No	
733	Sitka Spruce	19	No	Yes	No	
734	Giant Sequoia	31	Yes	No	Yes	18 ft.
735	Ailanthus	Multi	No	Yes	No	
736	White Poplar	23	No	Yes	No	

The total non-exempt tree diameter on the site is 31 inches. The applicant proposes to preserve tree 734, which comprises 31 inches of diameter, or 100 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-1). 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.

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

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

In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there are no trees required to be preserved in the areas where new development on the site is anticipated. Grading will be required for street improvements on SE Rhone Court. The grading plan for these improvements will be required at the time of final plat in relation to the street improvements. This criteria is met.

33.635.200 – Land Suitability

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

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

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

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. 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.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 76 feet of frontage on SE Powell Boulevard and approximately 101 feet of frontage on SE Rhone Court. SE Powell Boulevard is classified as a Major Traffic street, Transit Access street, City Bikeway, City Walkway, and Regional Corridor in the Transportation Element of the Comprehensive Plan. SE Powell Boulevard is also Highway 26 and is under the jurisdiction of the Oregon Department of Transportation. SE Rhone Court is a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service along SE Powell Boulevard adjacent to the site via bus number 9. Parking is currently not allowed on SE Powell Boulevard and is allowed on SE Rhone Court on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

SE Powell is improved with one lane in each direction and paved shoulders with no curbs or sidewalks along the site frontage. SE Rhone Court is a dead end public street that terminates at a partial turnaround at the site frontage. SE Rhone Court is developed with a paved roadway and no curbs or sidewalks, with the exception of the portion of the turnaround opposite the site, which is developed with curbs and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In

this case Portland Transportation has determined that street, curb and sidewalk improvements must be made in order to ensure that safe vehicle and pedestrian travel is possible. A 25-26-foot dedication of right-of-way for SE Rhone Court will also be required to accommodate the entire street and sidewalk corridor within public right-of-way. In addition to the 25 feet PDOT will require an additional triangle of right-of-way at the proposed southwestern property corner to accommodate the future 26-foot street width for SE Rhone Court. The triangle will need to measure approximately 5 feet to the north and 12 feet to the east from the proposed southwest property corner. Improvements must accommodate a 26-foot-wide street width for SE Rhone Court and a 15-foot wide sidewalk corridor that includes an 8-foot swale, a 6-foot sidewalk, and 6-inch curb and frontage zone (Exhibit C-2). With those improvements, one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

A 12-foot wide street dedication to the Oregon Department of Transportation will be required along SE Powell Boulevard to accommodate future street widening in accordance with the Powell/Foster Corridor Transportation Plan.

This criterion is met, with the condition that the required street improvements detailed above are made, and the required right-of-way dedications are made.

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 water standards of 33.651 have been verified. An existing 4-inch water main is available in SE Rhone Court that is available to serve the proposed development on Parcel 2. Parcel 1 has an existing water service from the main located in SE Powell Boulevard. This main can continue to provide water serviced to the house located on Parcel 1. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary sewer located in SE Rhone Court that can serve the sanitary needs of Parcel 2. However, the Bureau of Environmental Services has indicated that the new service branch must be connected directly to the main, rather than to the manhole as shown on the site plan. Parcel 1 has an existing sewer service from a 10-inch PVC public sanitary sewer main located in SE Powell Boulevard that can continue to serve the house on Parcel 1. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1 and C-2), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to improve SE Rhone Ct. frontage of the site to City standards, with paving, curbs and sidewalks (discussed earlier in this report). Stormwater from these new impervious areas will be directed into an 8-foot wide infiltration swale located between the curb and the new sidewalk. To accommodate this stormwater facility within the public right-of-way, a dedication along the frontage of the site must be provided on the final plat. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has provided conceptual approval of the street improvement plan received on March 11, 2008 (Exhibit C-2). However additional information will be required prior to final plat approval including street improvement sizing details, slopes, vegetation as well as the overflow location. These plans will be reviewed at the pre-design meeting that will take place prior to final plat approval.

Stormwater management will be included in the Public Works Permit. The applicant must provide engineered designs and financial guarantees of performance for the street improvements prior to final plat approval.

- **Parcel 2:** Stormwater from this lot will be directed to an individual soakage trench that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably sized home. Site Development has indicated conceptual approval of the soakage trench. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval by BES.
- **Parcel 1 (the lot with the existing house):** The existing house has downspouts that drain variously onto the ground and into underground pipes. Site Development has noted that there are no City records indicating where the pipes are directed. Prior to final plat approval, the applicant must document the location of the stormwater disposal for the existing house, to the satisfaction of Site Development. If the stormwater disposal system for the existing house will not be fully located on the parcel it serves after the land division, then appropriate easements must be provided on the final plat. Alternately, the applicant must modify the stormwater system for the existing house to

the specifications of Site Development and obtain finalized plumbing permits for the modifications required prior to final plat approval.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not applicable - No new dead end streets are proposed.
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable – No new private streets are proposed.
33.654.120.C.3.c	Turnarounds	Applicable - See findings below.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	Applicable - See findings below.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Applicable – No dead-end streets can be extended onto the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

- a. Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet**

- apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
- b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
 - c. Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
 - d. Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
 - e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

Findings: The site is located between SE 154th Avenue and SE 162nd Avenue, which have a distance between them of approximately 2,600 feet. There are no other north-south through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there should be a north-south through street provided in the vicinity of the site.

However, the site does not contain sufficient width to allow the creation of a public north-south through street. Additionally, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for a north-south through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

The site is within the Portland Master Street Plan for the Far Southeast District. The plan does not indicate the need for a connection at this site, therefore, the proposal is consistent with the master street plan.

A pedestrian connection would also not be practical at the site due to the size of the site and the configuration of existing development on adjacent lots. No pedestrian connection is proposed, therefore criterion e. does not apply.

For the reasons described above, this criterion is met.

33.654.120.C.3.c. Approval criterion for turnarounds. The turnaround must:

- Be of a size to accommodate expected users, taking into consideration the characteristics of the site such as existing structures, natural features, the length of the street, and the number of housing units served by the street;**
- Minimize paved area;**
- Provide adequate area for safe vehicular movement; and**
- Provide adequate area for safe and convenient movement by bicyclists and pedestrians traveling on the street or traveling from the street to a pedestrian connection.**

Findings: A radius turn-around is proposed at the terminus of SE Rhone Ct. The configuration of the turn-around has been reviewed by the Office of Transportation and the Fire Bureau. The Fire Bureau did not identify any concerns with the proposed turnaround configuration. PDOT has indicated that the size and configuration of the turn-around are adequate to provide safe vehicular and bicycle movement for the new parcel that will use the street. However, the turnaround will require a minimum 10-foot turning radius and the street must have a minimum width of 26 feet. As mentioned above, an additional dedication of a 5-foot by 12-foot triangle on the southwest corner of Parcel 2 will be required. A sidewalk is required along the turn-around, which will provide for safe and convenient pedestrian access along the frontage of SE Rhone Court. PDOT included specific instructions and dimensions in its land use review response (Exhibit E-2). The proposed street dedication has been sized to provide adequate room for the turn-around. This criterion is met.

Utility Location, Extension of Streets, Partial Rights of Way

33.654.130 Additional Approval Criteria for Rights-of-Way

A. Utilities. Utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way.

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

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. 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 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there is one several Zoning Code standard 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 16.8 feet from the new property line. Therefore, the required rear building setback for the existing house is 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 buildings relative to the adjacent new lot lines.

In addition there is an existing shed that appears to be located within the required 5' rear building setback. Zoning Code Section 33.110.250 4 allows covered accessory structures within the required building setback if they are 6' or less in height. At the time of final plat the applicant must provide evidence that the existing shed is 6' in height or less or located a minimum distance of 5' from the proposed property line.

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

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

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

- The applicant must meet the requirements of the Fire Bureau in regards to fire apparatus access. Fire access roads must have an unobstructed width of not less than 20', an unobstructed vertical clearance of not less than 13 feet 6 inches. SE Rhone Ct. has an approximate right of way width of 24 feet, with a paved roadway of approximately 16 feet. If the existing street does not meet the width requirement then the applicant must either improve the street to Fire Bureau requirements or obtain an approved appeal and meet any conditions that may be identified through the appeal process.

CONCLUSIONS

The applicant has proposed a 2-lot partition, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have

been met, or can be met with conditions. The primary issues identified with this proposal are:

- Street dedication and improvements on SE Rhone Court
- Street Dedication on SE Powell Blvd.
- Tree preservation
- Fire Bureau access to Parcel 2

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-lot partition that will result in two standard lots, as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. 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 Parcel 2
- Existing and proposed utilities.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Rhone Court. The required right-of-way dedication must be shown on the final plat.
2. The applicant shall meet the street dedication requirements of ODOT for SE Powell Boulevard. The dedication shall be completed and shown on the final plat.

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

Streets

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the frontage of SE Rhone Court. The applicant shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review and the Bureau of Environmental Services for required street frontage improvements.
2. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire accessway for Parcel 2. If appeals are granted, the applicant shall record an Acknowledgement of Special Land Use Conditions with the final plat that describes any conditions of the appeal.

Utilities

3. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing septic system on the site.

Existing Development

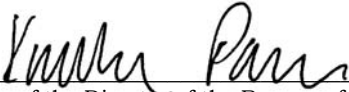
4. Documentation of the location of the stormwater disposal system for the existing house shall be submitted to the Site Development Section of the Bureau of Development

Services. The location of any existing or required stormwater systems serving the existing home must be shown on the Supplemental Plan. If, as a result of final plat approval, the stormwater system for the existing home will extend beyond the boundaries of Parcel 1 (the lot with the existing home), then the applicant must meet one of the following:

- Provide private stormwater easements on the final plat as necessary to ensure operation and maintenance of those systems, and record a maintenance agreement for the easement area; or
 - Provide finalized plumbing permits for modifications to the stormwater system that result in a system that meets City requirements. ■
5. The applicant shall submit documentation demonstrating the height of the existing shed on Parcel 1 in accordance with Zoning Code Section 33.110.250. C4. If the shed is greater than 6' in height it must be relocated to meet the 5' building setback requirements. Alternatively an approved Adjustment to the setback standards must be submitted.

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-1) and the applicant's arborist report (Exhibit A-2). Specifically, tree number 734 is required to be preserved, with an 18' root protection zone as indicated on Exhibit C-1. 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. If appeals are granted as fulfillment of Condition C-2 above regarding adequate fire access to Parcel 2, all conditions of the Fire Code Appeal must be met at the time of development.

Decision rendered by:  on (May 2, 2008)
By authority of the Director of the Bureau of Development Services

Decision mailed May 7, 2008

Staff Planner: Mieke Stekelenburg

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 3, 2007, and was determined to be complete on February 8, 2008.

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 3, 2007.

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

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

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

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

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

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City’s homepage on the Internet at www.portlandonline.com.

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

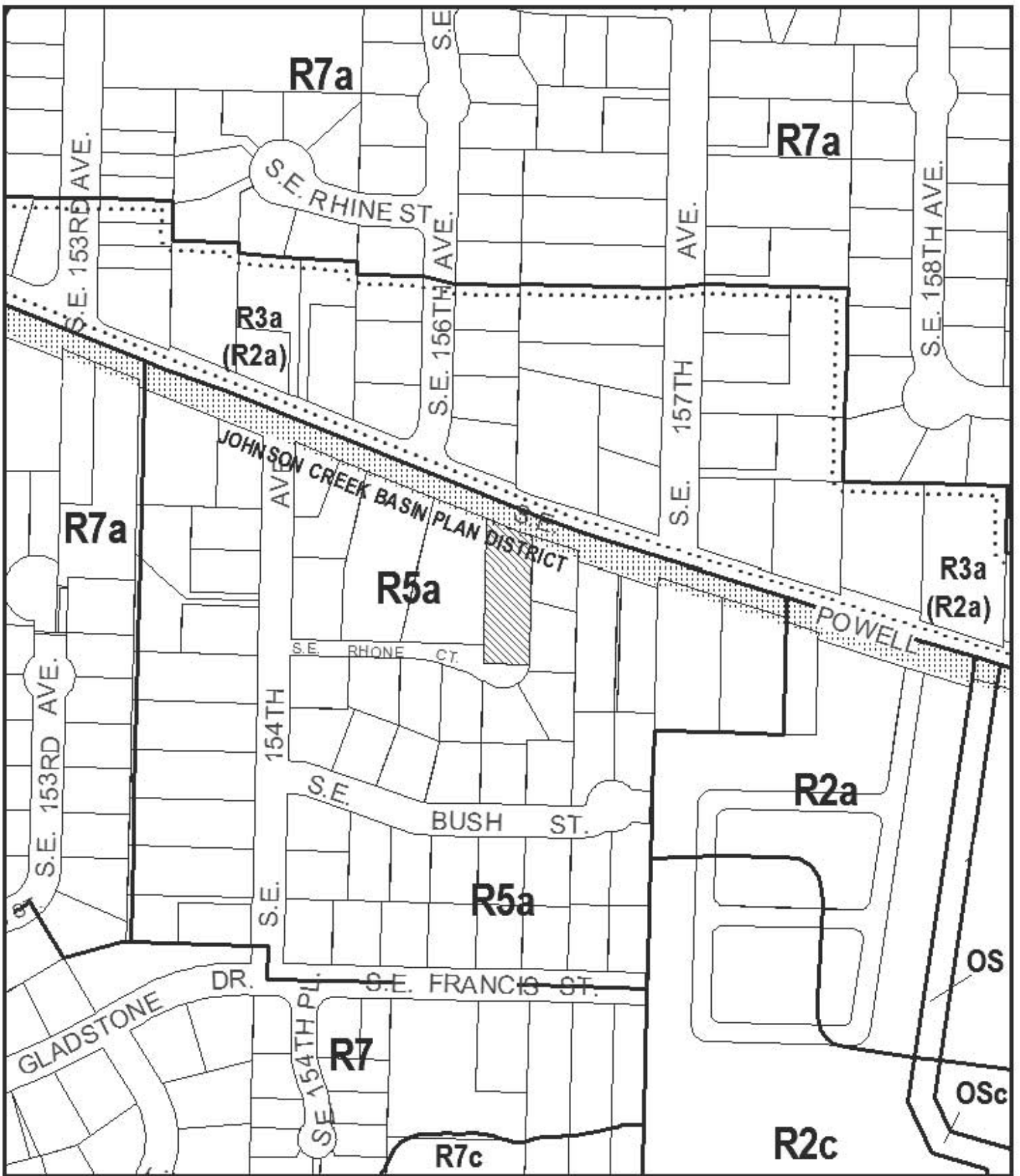
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Submittal
 - 1. Applicant’s statement
 - 2. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Street Improvements Plan (modified by PDOT Staff) (attached)
 - 3. Full-size Site Plan
 - 4. Full-size Street Improvements Plan (modified by PDOT Staff)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:

1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Life Safety
- F. Correspondence:
1. Louise Cody, Centennial Neighborhood Association Land Use Chair, 4/10/08, in support of the proposal with voluntary preservation of as many trees as possible.
- G. Other:
1. Original LU Application
 2. Incomplete Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).



ZONING

 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 07-180140 LDP
1/4 Section	3446
Scale	1 inch = 200 feet
State_Id	1S2E12DB 9700
Exhibit	B (Dec 05,2007)

PRELIMINARY PLAN

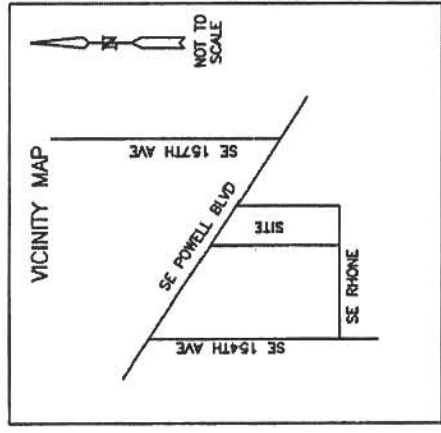
A TRACT OF LAND
SITUATED IN THE SE 1/4, SECTION 18,
T.1N., R.2E., WM.
CITY OF PORTLAND, COUNTY OF MULTNOMAH,
STATE OF OREGON
AUGUST 8, 2007

LEGEND

- ⊕ POWER POLE
- ⊙ GUY ANCHOR
- W WATER METER
- G GAS METER
- E ELECTRIC METER
- ⊕ W WATER VALVE
- ⊕ G GAS VALVE
- ⊕ M MANHOLE
- ⊕ C CLEAN OUT
- ⊕ B CATCH BASIN
- ⊕ H FIRE HYDRANT
- * DOWNSPOUTS
- W WATER LINE
- G GAS LINE
- E ELECTRIC LINE
- S SAN. SEWER
- ROOT PROTECTION ZONE
- ⊕ DECIDUOUS TREE
- ⊕ CONIFER TREE

NOTES

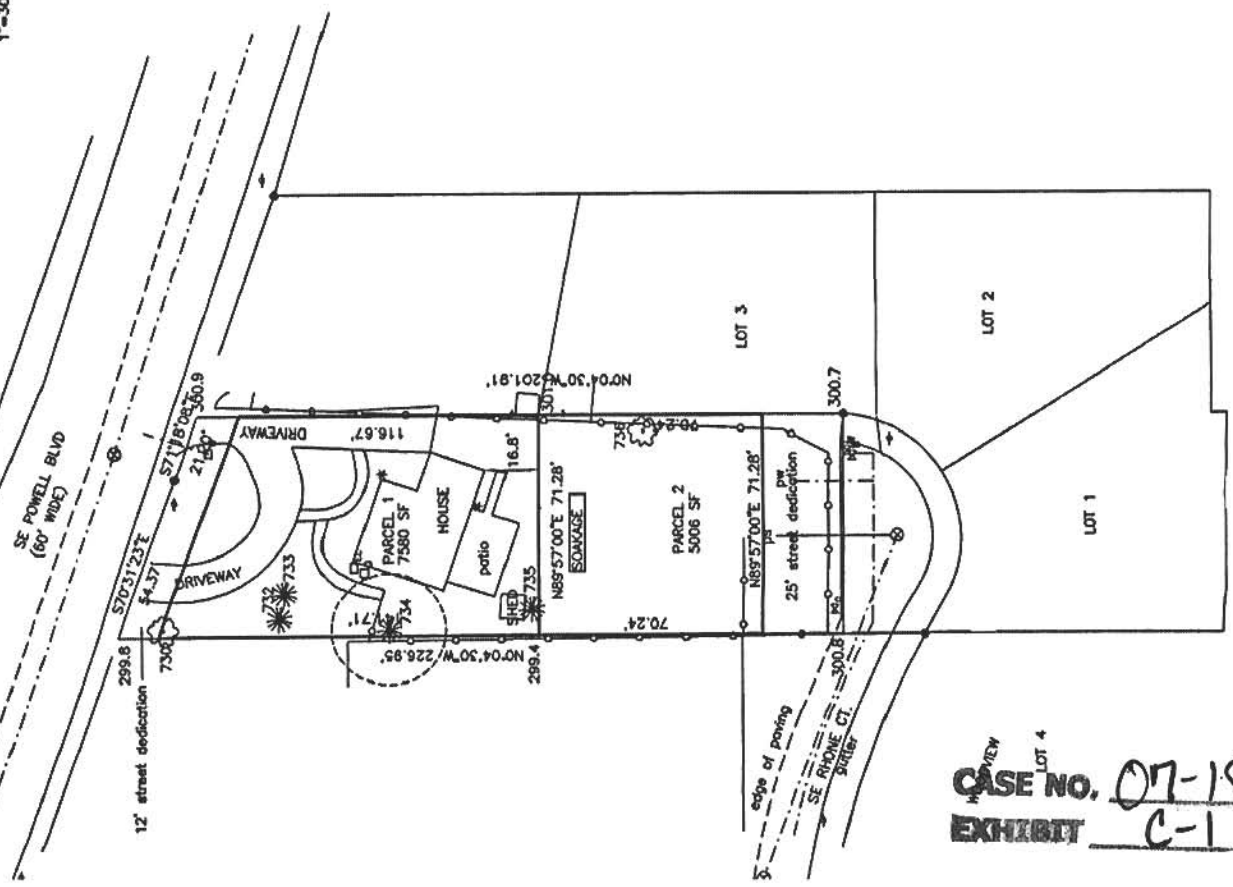
- SUBCONTRACTOR TO SPECIFY EXACT LOCATION OF UTILITY LATERALS.
- LOCAL DATUM.
- ZONED RS.
- CONTOUR INTERVAL IS 2'.
- EXISTING HOUSE ON PARCEL 1, DOWN SPOUTS TO REMAIN, DUMP INTO A PIPE, UNLESS OTHERWISE NOTED.
- SOAKAGE TRENCH DIMENSION WILL BE TO BES STANDARDS WHEN BUILDING PLANS ARE FINALIZED.
- DISTANCES SHOWN FOR EXISTING HOUSE ON PARCEL 1, ARE PERPENDICULAR TO THE PROPOSED PARCEL LINES FROM THE FOUNDATION CORNERS.
- DIMENSIONS AND AREAS MAY VARY SLIGHTLY UPON FINAL BOUNDARY RESOLUTION.
- ALL TREES WILL BE PROTECTED.
- UTILITIES ARE DRAWN FROM MAPPING PROVIDED BY CITY.



REGISTERED PROFESSIONAL LAND SURVEYOR
JULY 25, 1960
JOE W. FERGUSON
OREGON
RENEWAL DATE 12/31/07

CLIENT: TRISHA LATTIMER
SITE ADDRESS: 15526 SE POWELL BLVD.
PORTLAND, OREGON.

CLIENT: _____
SHEET NO. 1 OF 1
JOB NO. 07-086_A
DRAFTED 8.8.2007



NEW LOT 4
CASE NO. 07-180140
EXHIBIT C-1

