



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: June 9, 2008
To: Interested Person
From: Shawn Burgett, 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 reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 07-129712 LDS

GENERAL INFORMATION

Applicant: Hardy Li
Convergent Pacific
8975 SW Center St
Tigard, OR 97223

Owner: Thanh Kim Tran
2580 Senter Rd, #545
San Jose, Ca 95116

Site Address: 15042 SE Powell Blvd

Legal Description: TL 11700 1.28 ACRES, SECTION 12 1 S 2 E
Tax Account No.: R992120190
State ID No.: 1S2E12CA 11700
Quarter Section: 3445

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: R7a (Single Dwelling Residential with "a" Alternative Design Density Overlay)

Case Type: LDS AD (Land Division Subdivision with Adjustment)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing a 7-lot subdivision for detached homes. The existing house on the site, shown on proposed lot 6 will be retained, while the other two existing buildings on the site (shown partially on proposed lots 4 and 5) will be removed. Transportation (PDOT) is requiring the applicant to extend SE Rhine Court, an existing public street into the site where it will terminate with a 70-ft. radius turnaround. The applicant is also proposing a north-south private street, which will provide street frontage to lots 1 through 5. Additionally, Transportation (PDOT) is requiring a 12-ft. wide pedestrian connection from the northern end of the Private Street to SE Powell Boulevard. This pedestrian connection is shown on the attached site plan between lots 2 and 3. The Oregon Department of Transportation (ODOT), which has authority over access to SE Powell Blvd is not allowing a street connection to SE Powell Blvd at this location. The applicant had previously requested an adjustment to the Zoning Code standard for through lots. Zoning Code section 33.610.300 states that through lots are only allowed where both front lot lines are on local service streets. Since this time, planning staff has determined that the adjustment request to through lot standards is not necessary. Since Transportation (PDOT) is requiring a public pedestrian connection from the private street to SE Powell Blvd (exhibit C-1), lots 2 and 3 now have frontage along three right of ways, and are considered corner lots, not through lots. Therefore the applicants requested adjustment to the Zoning Codes through lot standards (33.610.300) does not apply to this proposal.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed.

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

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

- 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.
- 33.805.040, Approval Criteria for an Adjustment

ANALYSIS

Site and Vicinity: The site is relatively flat and has two existing single family homes located on it. Additionally, the site has many trees and takes its access from SE Powell Blvd. SE Rhine Ct. abuts the site to the west, but does not provide access to the site. The area is made up of predominantly single family homes of various types and sizes.

Zoning: The R7 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. None of these standards apply.

Land Use History: City records indicate no previous land use history

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on November 16, 2007.

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: Three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

Neighborhood Letter: The letters expressed concern about the pedestrian connection being proposed at the end of the private street, which will connect the site to SE Powell Blvd to the north. The letters submitted felt that the pedestrian path would provide an accessway that could be used by criminals.

BDS Response: *Planning staff understands your concern, although there is no approval criteria in the Zoning code that addresses the potential for criminal activity on a public right-of-way created through a land division. The Office of Transportation (PDOT) is requiring the pedestrian path to SE Powell Blvd, because ODOT (Oregon Department of Transportation) is not allowing a direct street connection to SE Powell Blvd. at this location. Additionally, SE Rhine Ct. will be extended into the site and terminate as a deadend. If pedestrian access to SE Powell Blvd from the site were not created, a pedestrian would need to walk approximately 600 ft. to the corner of SE Rhine Ct. and SE 148th Ave, and then north another approximately 300 additional feet to gain access to SE Powell Blvd. The proposed pedestrian connection allows pedestrian to walk a very short distance to access SE Powell Blvd from the site, where bus service is provided. Additionally, the Zoning Codes connectivity standards apply (Zoning code section 33.654). There is approximately 900 ft. between the nearest north-south through streets in the area. Although this pedestrian connection will not provide vehicle access, it still provides a public north-south right-of-way in the vicinity.*

Neighborhood Letter: The neighborhood letters felt that the proposal does not provide enough parking for the number of homes proposed. Additionally, some of the neighbors felt that the applicant should reduce the number of lots proposed.

BDS Response: *Based on the number of lots proposed, the public and private streets are both sized appropriately to meet the City standards in regard to street width and the amount of on-street parking that is required. The private street will have parking on one side of the street, in addition to parking that will be provided on each individual lot. The public street (SE Rhine Ct.) will also provide some on street parking areas in addition to the parking provided on each individual lot. In regard to the number of lots proposed (7), due to the size of this site, the Zoning Code allows a maximum of 7 lots on this site.*

Neighborhood Letter: The Centennial Neighborhood Association expressed concern about the pedestrian path connecting to SE Powell Blvd, and have requested that lighting be installed in association with this path for safety. This letter also requested that the applicant be required to create a buffer along SE Powell Blvd. in association with the adjustment the applicant had requested to the Zoning Codes through lot standards.

BDS response: *The applicants adjustment request to the through lot standards was determined unnecessary for this land use case. Planning staff determined that lots 2 and 3 are not technically “through lots” but “corner lots: with frontage along three right-of-ways, the new private street tract, the new public pedestrian connection (which is considered a public right of way) and SE Powell Blvd. Since Lots 2 and 2 are not considered through lots, findings cannot be made to require a landscaped buffer to separate lots 2 and 3 from SE Powell Blvd. Any new development on lots 1 and 2 will have the choice of orientating its main entrance towards SE Powell Blvd, the new Private Street Tract or the public pedestrian path. All vehicle access to lots 2 and 3 will be required to access these lots from the new private street tract, per ODOT’s requirement. As discussed later in the report, since both lots 2 and 3 have frontage along SE Powell Blvd, the pedestrian path, and the Private street, any new homes built on lots 2 and 3 will be required to meet the Zoning Codes street facing facade requirements, which requires facades facing any street to maintain 15% windows (Zoning Code section 33.110.232.C). This however would not prohibit a future owner of lots 2 or 3 from planting there own landscaped barrier along SE Powell Blvd, or maintaining the existing vegetation along SE Powell Blvd, which consists primarily of Norway maples and a Laurel hedge, which are considered exempt and cannot be formally protected through the tree preservation requirements. Even though this existing vegetation cannot be formally protected under the City Tree Preservation requirements, this vegetation can still be kept by the property owners and would act as a buffer between these lots and SE Powell Blvd to the north. In regard to the lighting of the pedestrian path, the elements that will be required within the pedestrian path are not typically worked out until the pre-design process. Please contact Michelle Dewey (503-823-1333) from PDOT to discuss this option.*

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.

Criterion	Code Chapter	Topic	Applicability Findings
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	Applicable - See findings below.
I	33.639	Solar Access	Applicable – See findings below.
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 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 = $55,756 \text{ square feet} \times .68 \div 7,000 \text{ square feet} = 5.41$ (which rounds down to a minimum of 5 lots, per 33.930.020.A)

Maximum = $55,756 \text{ square feet} \times .85 \div 7,000 \text{ square feet} = 6.77$ (which rounds up to a maximum of 7 lots, per 33.930.020.B)

The applicant is proposing 7 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):

R7 Zone Requirements					
	Minimum Lot Area	Maximum Lot Area	Minimum Lot Width*	Minimum Front Lot Line	Minimum Lot Depth
Lot	4,200 sq. ft.	12,000 sq. ft.	40 ft.	30 ft.	55 ft.
1	4,632 sq. ft.		≈57 ft.	≈57 ft.	≈106 ft.
2***	6,204 sq. ft.		≈64 ft.	≈30 ft.**	≈90 ft.
3***	5,449 sq. ft.		≈37 ft.	≈53 ft.	≈60 ft.
4	4,475 sq. ft.		≈70 ft.	≈78 ft.	≈65 ft.
5	4,752 sq. ft.		≈67 ft.	≈67 ft.	≈65 ft.
6	6,100 sq. ft.		≈45 ft.	≈34 ft.	≈93 ft.
7	7,277 sq. ft.		≈85 ft.	≈83 ft.	≈77 ft.

* Width is measured at the minimum front building setback line

** It should be noted that Lot 2 appears to have front lot line measuring approximately 28 ft., prior to final plat approval, the applicant must demonstrate that parcel 2 has at least a 30 ft. front lot line off of "Tract A" the Private street tract.

*** It should be noted that lots 2 and 3 are considered "Corner Lots" with frontage along three streets, SE Powell Blvd, the Private street tract and the public pedestrian connection to SE Powell Blvd.

The findings above describe how the applicable lot standards are met. With the conditions of approval described above, 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. For a complete list of trees on the site, please refer to the table in the Arborist report (exhibit A-2).

The total non-exempt tree diameter on the site is 239 inches. The applicant proposes to preserve trees 2, 11, 16, 20 and 21, which comprise of 69 inches of diameter, or 30 percent of the total non-exempt tree diameter. This proposal complies with Option 2 of the tree preservation standards, which requires at least 30 percent of the total tree diameter on the site to be preserved if the applicant preserves 50 percent of the significant trees on the site. There are five trees on the site that are considered significant (trees numbered 2, 3, 7, 11 and 16), the applicant has agreed to protect three of five significant trees. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-2).

Additionally, trees numbered 2, 11 and 16 above have root protection zones that were reduced by the arborist (exhibit A-2). The arborist reduced the root protection zones of these trees with the caveat that any 2" roots encountered outside of the recommended root protection zone would require a certified arborist to be brought onto the site to help ensure these trees remain viable. Therefore, as a condition of approval, the applicant must indicate clearly in writing on the development plans for public pedestrian connection and development on lots 1, 4 and 5 that any 2" roots encountered outside of the root protection zone of trees numbered 2, 11 and 16 (exhibit C-2) will require the applicant to contact a certified arborist to ensure these trees remain viable during construction on the site. If a 2" inch root is encountered within the public pedestrian right-of-way located directly east of tree number 2; the City Forester may be consulted.

This criterion is met, subject to the condition that development on lots 1, 2, 5, and 7 be carried out in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-2).

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 relatively flat, and is not located within the Potential Landslide Hazard Area. However a new street and associated stormwater system is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C-3) that depicts the proposed work, including existing and proposed elevation contours and soil stockpile areas.

The proposed clearing and grading shown on Exhibit C-3 represents a minimal amount of change to the existing contours and drainage patterns of the site to provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed by stormwater swales to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading proposed is sufficient for the construction of the new streets and the preparation of the lots. The limits of disturbance shown on the applicant's plan includes grading of the street areas, as well as the lots, to allow the applicant to conduct the majority of the clearing and grading on the site at one time. This will help manage erosion and sedimentation concerns, assure that the necessary tree protection measures are in place before the grading begins and limit the disturbance on the adjacent properties. The limits of disturbance will also allow for the existing house (with an address of 15042 SE Powell) and the accessory structures associated with this house, be demolished and any debris associated with these buildings to be removed.

The clearing and grading plan indicates areas of topsoil storage and general stockpiling that are located directly adjacent to the new street tract/right of way. The clearing and grading plan does not indicate which trees on the are being protected, and the root protection zone of each protected trees. A condition of approval will require the clearing and grading plan submitted with the Site Development permit to indicate the location of all protected trees on the site and the root protection zone of each of these trees, as shown in exhibit C-2, in correlation's with the applicants Tree Preservation Plan, which must be at part of the final clearing and grading plan submitted for this site.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street and for mass grading and utility construction in the new public/private street right-of-ways. The permit application must include a final clearing and grading plan, that must be consistent with the preliminary clearing and grading plan and the applicants Tree preservation plan (exhibit C-2) approved with the land division. With a condition of approval that the applicant's final clearing and grading plan is consistent with the preliminary clearing and grading plan and the applicants Tree Preservation Plan, this criterion 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, there is one existing house that will remain on lot 6, and another house with an associated detached garage located where Tract A is proposed (the private street) that will be demolished. 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. City records do not show that the septic systems on the site were decommissioned at the time the existing houses were connected to the public sewer system. Prior to final plat approval, the applicant must decommission the systems. Prior to final plat approval, the applicant must obtain and have finalized separate decommissioning permits for each existing house. The cesspool serving 15048 SE Powell is located 25 feet from the southwest corner of the house. The cesspool serving 15042 SE Powell is located to the south of the house. Additionally, any drywells serving structures that will be demolished must also be decommissioned.

Additionally, in order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of the existing house and detached garage with the address of 15042 SE Powell (the house that is not located on Lot 6). The applicant will also be required to cap the sewer line serving this house prior to final plat approval.

With conditions of approval listed above, the new lots can be considered suitable for development. This criterion is met.

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

33.636.100 Requirements for Tracts and Easements

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
- 2. The Homeowners' Association for the area served by the tract;**
- 3. A public or private non-profit organization; or**
- 4. The City or other jurisdiction.**

Findings: The following tracts are proposed: Tract A, Private Street Tract. With a condition that the proposed tract be owned in common by the owners of lots 1 through 5, this criterion can be met.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: No easements are proposed or required in association with this proposal.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement with a recording block for the agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for the Private street (Tract A) has been recorded as document no. _____, Multnomah County Deed Records.”

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

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

The solar access criteria are applied to proposed lots based on the orientation of the streets, as described below.

33.639.100, Solar Access Approval Criteria

On streets that are within 30 degrees of a true east-west axis, the narrowest lots should be interior lots on the south side of the street and corner lots on the north side of the street.

On streets that are within 30 degrees of a true north-south axis, the widest lots should be interior lots on the east or west side of the street.

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

In this case the site fronts on SE Powell Blvd and on SE Rhine Ct. which are both east-west streets, although SE Rhine Ct. ends in a dead-end at the site. As discussed later in the report, Transportation (PDOT) is requiring SE Rhine Ct. to be extended into the site, which will end with a cul-de-sac. ODOT (who has jurisdiction over SE Powell Blvd.) did not allow a through street connection to SE Powell Blvd for vehicles in this vicinity, so the location of the public and private streets proposed, along with the public pedestrian connection to SE Powell within this proposal, were dictated by the public and private street requirements.

Therefore, the Solar Access Approval Criteria are superseded by other conflicting requirements in the 600's chapters of the Zoning Code, per 33.639.020. The proposed land division layout was in part dictated by the need to provide public street connection, and connectivity, per 33.654, limiting the opportunity for lot size variations.

In this proposal, the design necessary to meet 33.654 (or 33.630) is in conflict with the solar access criteria. Those other requirements supersede 33.639, therefore the solar access criteria do not apply.

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 182 feet of frontage on SE Powell Blvd and approximately 50 feet of frontage along SE Rhine Ct., which dead-ends in the southwest portion of the site. SE Powell Blvd is designated in the City's Transportation System Plan as a Major City Traffic Street, Transit Access Street, City Walkway, City Bikeway, Major Truck Street, Major Emergency Response Street, and Regional Corridor. SE Powell Boulevard is also Highway 26 and is under ODOT jurisdiction. SE Rhine Ct. is a local service street for all modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service directly adjacent to the site on SE Powell Blvd via bus 9. Parking is currently allowed on SE Rhine Ct. on both sides, and is allowed on both sides of SE Powell Blvd. There is one driveway entering the site from SE Powell Blvd that provides access to off-street parking for the two existing houses.

SE Rhine Ct. is improved with a paved roadway, sidewalks and a planter strip. As mentioned above, SE Rhine Ct. currently dead-ends in the southwestern portion of the site.

As mentioned above, the site has frontage on SE Powell Blvd. The Oregon Department of Transportation (ODOT) has authority over access to SE Powell Boulevard and is not allowing a street connection to SE Powell Blvd at this location. Additionally, the applicant is proposing a north-south private street, which will provide street frontage to lots 1 through 5.

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 SE Rhine Court must be extended into the site and terminated with a City-standard 70-foot diameter cul-de-sac. In addition, a pedestrian connection will be required to be constructed to connect SE Rhine Court to SE Powell Boulevard, via the proposed private street (Tract A). The 12-ft. wide pedestrian connection is shown in exhibit C-1 from the northern end of the Private Street to SE Powell Boulevard.

The new public cul-de-sac and pedestrian connection to SE Powell Blvd. are both within the land division site, and provide access to lots 1 through 7 from SE Powell Blvd and SE Rhine Ct. ODOT is not allowing any street connections or vehicle access from the site to SE Powell Blvd. Lots 2 and 3 (which have frontage on SE Powell Blvd and the Private street tract) must take any driveway access from the proposed private street. The streets are anticipated to serve the vehicle traffic, pedestrians and bicyclists accessing these lots, while the pedestrian connection is anticipated to serve pedestrians. The Portland Office of Transportation (PDOT) and BDS have determined that the proposed street improvements are sufficient to serve these expected users (see further discussion in the Right of Way approval criteria below). The applicant must provide plans and financial assurances for the construction of the public street cul-de-sac and pedestrian connection prior to final plat approval. In addition the right-of-way dedication necessary to accommodate the new public street and pedestrian connection must be shown on the final plat. Additionally a Site development permit will be required for the private street tract, which must also be shown on the plat.

With these improvements, seven additional dwellings can be safely served without having any significant impact on the level of service provided.

ODOT Requirement for SE Powell Boulevard

The applicant is required to dedicate right-of-way meeting the requirements of the Oregon Department of Transportation along the SE Powell Boulevard frontage. For properties on Powell Blvd located between SE 122nd and the City limits, ODOT requires a 12-foot right-of-way dedication to meet the planned 4 lane section of Powell Boulevard in accordance with the Powell/Foster Corridor Transportation Plan (Plan recommendations adopted in the Regional Transportation Plan by Metro December 11, 2003). The dedication must be to the State of Oregon, Oregon Department of Transportation. Contact Loretta Kieffer, ODOT Access Coordinator, District 2B Office, at (971) 673-6200, for assistance in coordinating the dedication. She will verify to the City that the dedication requirement has been fulfilled. The dedication must occur prior to final plat approval.

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

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

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. There are two existing 5/8" metered water services located in the south side of SE Powell Blvd that are available to serve lots 2 and 3. There is approximately 365' of existing 4" cast iron water main connected to 140' of 6" cast iron water main installed in 1972 in SE Rhine Court. The existing 4" cast iron main in SE Rhine Court is connected to an existing 8" cast iron water main in SE 148th Avenue. The existing water main in SE Rhine Ct. must be extended into the site to serve lots 1, 4, 5, 6 and 7. Service to lot 4 must be installed within the boundary of the private street.

Additionally, the Fire Bureau is requiring the applicant to install a new fire hydrant. The applicant has two options to comply the Fire Bureau's requirements: 1) Installing a fire hydrant at a minimum fire flow requirement of 500 gallons per minute and fire sprinkler system in all proposed houses. The new main and fire hydrant will be installed by applicant; or 2) Installing a fire hydrant at the standard fire flow

requirement of 1,250 gallons per minute by upsizing the existing 4” cast iron water main in SE Rhine Court. The upsizing the existing main will be done by Portland Water Bureau at the applicant’s expenses.

If the applicants chooses option 1 discussed above, an acknowledgment of special land use conditions must be recorded with the final plat describing any Fire Bureau sprinkler requirements.

In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the [Water Bureau] prior to final plat approval. See Exhibit E-3 and E-4 for more details.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch public sanitary sewer located in SE Rhine Ct. that can be extended into the site within the public street extension required by Transportation (PDOT), and can serve the sanitary needs of the proposed lots. The applicant must cap the sanitary sewer serving the existing house that will remain on lot 6 (address of 15048 SE Powell Blvd) and establish new service to the house. No permits for residential construction on the site will be issued until a plumbing permit is obtained and finalized for this work. Additionally, a public works permit to extend the public sewer to this site is required prior to final plat approval. 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 (Exhibits A-6 and C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- **Private Street:** Stormwater will be directed to an 8-foot wide infiltration swale located within the street tract. The applicant has submitted stormwater calculations and soil test results (exhibit A-6) that indicate the size of the proposed swale can accommodate the volume of stormwater runoff from the impervious areas of the street. The Site Development Section has indicated conceptual approval of the proposed swale location and size.
- **Public Street Improvements:** As a condition of this land use approval, the Office of Transportation requires the applicant to extend SE Rhine Ct. into the site to City standards, with 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. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has confirmed that the proposed swale is of a size and proposed design that is adequate to provide infiltration for the quantity of water generated from the new impervious areas. To accommodate this stormwater facility within the public right-of-way, a dedication must be provided on the final plat.

BES will review the swale as part of the Public Works Permit. The applicant must provide engineered designs and financial guarantees of performance for the public streets prior to final plat approval. █

As discussed in the report (exhibit E-4), the Fire Bureau is allowing the pedestrian right of way as an emergency vehicle access route to the site. It should be noted that the Fire Bureau will not require the whole 12-ft. public pedestrian accessway to be paved, gravel or another pervious surface may be used on both sides of the pedestrian path, as long as the path can sustain the weight of a fire truck. The area within the public pedestrian accessway, adjacent to the required sidewalk, should provide an adequate area for stormwater disposal. As a condition of approval, the applicant will be required to address any Fire Bureau requirements within the public pedestrian accessway as part of the public works permit.

- **Lots 1-5, and lot 7:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywells and requested a 15-ft. setback be required on this site, to assure that adequate space is available to accommodate a stormwater disposal facility that can comply with the requirements of the Stormwater Management Manual.
- **Lot 6 (the lot with the existing house):** The downspouts the house on lot 6 is connected to underground pipes. There are no city records on where the pipes are directed. All stormwater facilities must be located on the same property as the structure they serve and further, must not be situated so as to adversely affect existing

development on-site or on adjacent properties. Prior to final plat approval, the applicant must demonstrate that this requirement is met to the satisfaction of the Site Development Section. As part of this requirement, the gutters serving the house that will remain must be repaired.

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	Applicable - See findings below.
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	Applicable - See findings below.
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	Applicable - See findings below.
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 - See findings below
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Applicable - See findings below
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 148th Ave and 151st Ave, which have a distance between them of approximately 890 feet. There are no other north/south through streets between these two streets. Additionally, the site is located between SE Powell Blvd, and SE Gladstone Street which have a distance between them of approximately 1,800 sq. ft. There are no other east/west through streets in the vicinity. SE Rhine Ct., an east-west street, dead-ends at the site. If the distance between these existing through streets is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there should be north-south and east-west through streets provided in the vicinity of the site.

As mentioned earlier in this report, ODOT (The Oregon Department of Transportation) has jurisdiction over SE Powell Blvd, and is not allowing a street connection to SE Powell Blvd at this location. Therefore, SE Rhine Ct. will be extended into the site, but will terminate in a dead-end. A small private street is proposed off of the public street dead and a public pedestrian connection will connect the Private St. to SE Powell Blvd. This proposal therefore meets the connectivity requirements since a pedestrian connection will extend between SE Rhine Ct. and SE Powell Blvd.

The site contains sufficient width to allow the creation of public east-west and north-south through streets. However, the properties adjacent to the portion of the site where SE Rhine Ct. would terminate to the east are already developed, and not configured in a manner that would not easily allow the further extension of a street from the site. And as mentioned

above, ODOT is not allowing a street connection to SE Powell Blvd at this location, which eliminates the possibility of providing a north-south through street for vehicles at this location. As mentioned above, PDOT is requiring a north-south pedestrian connection to SE Powell Blvd from the site. So although the optimum spacing criteria would indicate the need for an east-west and north-south through street 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, which does not show any north-south, or east-west through street at this location. Therefore, the proposal is consistent with the master street plan.

For the reasons described above, this criterion is met.

33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones. In OS, R, C, and E zones, dead-end streets may be provided where through streets are not required. Dead-end streets should generally not exceed 200 feet in length, and should generally not serve more than 18 dwelling units. Public dead-end streets should generally be at least 200 feet apart.

Findings: The proposal includes a private north-south dead-end street and a public east-west dead-end street. As discussed under the findings for through streets above, a new public east-west or north-south through street is not feasible for this proposal.

The dead-end streets will serve only 7 dwelling units and it is approximately 100 feet in length from the required public-cul-de-sac, which will be extended into the site as part of SE Rhine Ct. This criterion is met.

33.654.120.C.1 Approval criterion for width of the right-of-way. The width of the local street right-of-way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

Findings: The private street will serve 5 lots. The applicant has proposed a 52-foot wide tract, terminating in a 20-foot radius turn-around. The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a width of 36-40 feet for dead-end streets less than 300 feet long, serving 4 or more lots. This width will provide room for the construction of a 28-foot wide paved roadway that allows two travel lanes, parking on one side, two 6-inch curbs, two 8-foot wide swales and a 6-foot wide sidewalk on the east side of the private street, along with a 1-foot setback between the street improvements and private property on each side of the street. In this proposal, the applicant will be disposing of stormwater from the private street within an infiltration swale located in the area where the standard planter strip would be located. These elements, including the swale can be accommodated in a 52-foot wide tract.

Additionally, a public street extension of SE Rhine Ct. will serve the lots in this land division. The extension of SE Rhine Ct. will result in a 70-ft. diameter cul-de-sac. The cross section for SE Rhine Court west of the cul-de-sac must be designed to match the existing cross section of SE Rhine Court (32-foot street width). A minimum sidewalk width of 5 feet will be required where the sidewalk is separated from the curb by at least a 4-foot wide planter or larger planter/swale for stormwater treatment. Where the sidewalk is proposed to be located at the back of the curb, the sidewalk width will be required to be widened to 7 feet (0.5' curb plus 6.5' sidewalk).

The applicant will be disposing of stormwater from the street in an infiltration swale located in the area where the standard planter strip would be located. As discussed previously in this report, the proposed planter strip has been sized to accommodate this stormwater facility. The applicant has proposed a right-of-way dedication that corresponds to these improvements. The Office of Transportation has indicated in their response that these improvements and dedication width are acceptable.

In addition, a sidewalk is required as part of the private street. In order to assure access to this sidewalk for visitors, delivery persons and the general public, a public walkway easement must be shown over the sidewalk portion of the street.

Overall, the proposed private street tract width is sufficient to accommodate the elements of a street that is presumed to be adequate for 5 lots by the *Administrative Rules* governing private streets. Additionally, the public street extension of SE Rhine Ct. and the dimensions of the proposed 70-ft. radius cul-de-sac have been reviewed and meet PDOT's dimension standards. 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 hammer-head turn-around is proposed at the terminus of the private street tract and a 70 ft. diameter cul-de-sac turnaround is required at the end of SE Rhine Ct. (the public street that is being extended into the site). The configuration of the private street turn-around has been reviewed by the Site Development Section of the Bureau of Development Services, while the configuration of the Public Street turnaround has been reviewed by the Office of Transportation (PDOT). Site Development and PDOT have both indicated that the size and configuration of the private and public turn-around are both adequate to provide safe vehicular and bicycle movement for the site and the development proposed. The Fire Bureau has reviewed the proposed turnarounds, and has approved the applicants Fire Code appeal (#4717, exhibit E-4) which proposes to have fire trucks use the 12 ft. wide public right of way required for pedestrian access as a Fire Apparatus road in lieu of the standard sized turnaround the Fire Bureau requires. The applicant will be required to install a removable bollard within the pedestrian accessway to the satisfaction of the Fire Bureau.

Additionally, a sidewalk is required along one side of the private street that extends all the way around the turn-around and connects to the pedestrian connection required by PDOT that will be located at the end of the private street, and will connect the site to SE Powell Blvd. Additionally, the sidewalk on the private street will connect to the sidewalk proposed around both sides of the 70 ft. radius public turnaround at the end of SE Rhine Ct. The sidewalk will then connect to the existing sidewalks located on both sides of SE Rhine Ct. The sidewalks will provide for safe and convenient pedestrian access from SE Powell Blvd, along the private street to SE Rhine Ct. The proposed street tracts have been sized to provide adequate room for both turnarounds. This criterion is met.

33.654.120.E. Approval criterion for the width of pedestrian connections. The width of the pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end.

Findings: The proposed public pedestrian connection to SE Powell Blvd from the end of the private street tract is 12 ft. wide, which provide enough room for a 6 ft. wide sidewalk. This pedestrian connection was required since ODOT (Oregon Department of Transportation) is not allowing a street connection to SE Powell Blvd. at this location. Additionally, the public pedestrian connection will connect to a 6-ft. wide sidewalk that extends along the eastern edge of the private street tract, and will have a public walkway easement over it. The sidewalk on the private street will then connect to the sidewalks located around the proposed public street cul-de-sac at the end of SE Rhine Ct. The new cul-de-sac at the end of SE Rhine Ct. will have sidewalks on both sides and will then connect to the existing sidewalks located along SE Rhine Ct. The proposed pedestrian connection provides a direct pedestrian connection through the site, from the end of SE Rhine Ct., over the private street, to SE Powell Blvd. 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 proposed the private street tract or public right-of-way can be provided on the final plat. At this time no specific utility easements adjacent to the street tract or right-of-way have been identified as being necessary. Therefore, this criterion is met.

B. Extension of existing public dead-end streets and pedestrian connections. Existing public dead-end streets and pedestrian connections adjacent to the site must be extended onto the site as needed to serve the site.

Findings: SE Rhine Ct. currently dead-ends directly west of this site. As part for this proposal, SE Rhine Ct. is being extended into the site and will terminate as a 70-ft. radius cul-de-sac, since extending SE Rhine Ct. further east is unfeasible due to existing development east of this site. Additionally, there are no existing pedestrian connections serving the site, however the applicant will be required create a north-south pedestrian connection north that will connect the end of SE Rhine Ct. to SE Powell Blvd. via the proposed private street tract. This criterion is met.

C. Future extension of proposed dead-end streets and pedestrian connections. Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:

1. **The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan;**
or
2. **The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.**

Findings: As discussed under the findings for 33.654.110.C, adjacent sites to the east of the site are already developed. ODOT will not allow a through street connection to the north. There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed street to the eastern or northern boundary of the site. 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 6. 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 R7 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there is one 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 approximately 11 feet from the new northern property line and approximately 9 feet from the new western property line. Additionally, the garage is located approximately 20 feet from the proposed public street turnaround. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- New Driveway for the existing house on lot 6- The existing house on the site must connect to the new public street with an approved driveway and driveway

approach. Prior to issuing the permits for residential construction on the lots the applicant shall install a driveway on lot 6, meeting Zoning Code section 33.266.

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 is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a building permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to the following:
 - Posting of "No Parking" signs on one side of the private street;
 - Installing a new hydrant and ensuring adequate hydrant flow from the nearest fire hydrant or obtaining an approved Fire Bureau appeal to this requirement and

record an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Lots 1-7.

-The applicant is also required to designate the private street as an emergency vehicle access lane. The applicant must provide an emergency vehicle access easement (EVAE) over the private street.

Lastly, the applicant filed a fire code appeal (appeal id # 4717, attached to exhibit E-4) that the Fire Bureau approved that will allow the use of the 12 ft. wide public pedestrian path to SE Powell Blvd in lieu of the standard Fire Bureau turnaround required. The requirement of the Fire Bureau must be met on the pedestrian connection improvements prior to final plat approval. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

CONCLUSIONS

The applicant has proposed a 7-lot subdivision, 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: public and private street improvements and the extension of utilities to the site. The applicant has originally requested an adjustment to the through lots standards of Zoning Code section 33.610.300.A in regard to lots 2 and 3. Upon further review, Planning staff determined that this adjustment request was not necessary because lots 2 and 3 are considered “corner lots” with frontage along three separate right-of-ways (SE Powell Blvd., the Private street, Tract A and the public pedestrian connection) and are not considered “through lots.”

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 7-lot subdivision, that will result in seven standard lots, a new public street cul-de-sac and pedestrian connection to SE Powell Blvd, and a private street (tract A) 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;
- 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 the extension of SE Rhine Ct. and the public pedestrian connection to SE Powell Blvd. 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 Powell Boulevard. The dedication must be recorded and then shown on the plat.

3. An Emergency Vehicle Access Easement, granted to the City of Portland, shall be shown over the private street roadway to the satisfaction of the Fire Bureau.
4. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*."
5. A public walkway easement must be shown over the sidewalk portion(s) of the private street tract.
6. 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.13 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for the Private Street(Tract A) has been recorded as document no. _____, Multnomah County Deed Records."
7. Lot 2 shall have a minimum front lot line off of the Private street Tract of 30 ft.

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

Streets

1. The applicant shall meet the requirements of the City Engineer for the extension of SE Rhine Ct. and the public pedestrian connection. 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 improvements.

Additionally, the applicant must satisfy any Fire Bureau requirements for improvements within the public pedestrian connection that will be available for Fire Bureau access to the site. The applicant must also indicate clearly in writing on the development plans for the improvements within the public pedestrian right-of-way that any 2" roots encountered in association with tree number 2 (exhibit C-2) will require the applicant/builder to contact a certified arborist or the City Forester in order to ensure tree number 2 remains viable.

2. The applicant shall submit an application for a Site Development Permit for construction of the private street and mass grading and utility construction for the new public streets and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer and shall meet the turning radius requirements for the Fire Bureau.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.
4. The applicant shall provide a clearing and grading plan with the Site Development permit as described in Condition C.2. The clearing and grading plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibit C-3) with the following additions:

- It must show root protection zones of the trees to be preserved on the Tree Preservation Plan (Exhibit C-2)

Utilities

5. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) for extending a public sewer main. The public sewer extension requires a Public Works Permit, which must be initiated prior to final plat approval. In addition, the applicant must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.
6. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the existing cesspools on the site and decommissioning any existing drywells, unless otherwise authorized by Site Development.
7. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SE Rhine Ct.
8. The applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant with adequate flow. The applicant must contact the Water Bureau to purchase the hydrant. Verification of the purchase and water flow must be provided to the Fire Bureau before Final Plat approval. If the applicant chooses to use an exception to reduce the allowed fire flow, residential sprinklers may be required and an acknowledgment of special land use conditions will be required and recorded with the plat.

Existing Development

9. A finalized permit must be obtained for demolition of the existing residence and detached garage (located within the area to become the private street, with an address of 15042 SE Powell Blvd.) and capping the existing sanitary sewer connection. Note that Title 24 requires a 35-day demolition delay period for most residential structures.
10. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Lot 6. Specifically, the gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by Site Development, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.

Required Legal Documents

11. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Lots 1-5 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge all easements granted within the street tract, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

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

1. Development on Lots 1, 2, 4, 5 and 7 shall be in conformance with the Tree Preservation Plan (Exhibit C-2) and the applicant's arborist report (Exhibit A-2). Specifically, trees numbered 2, 11, 16, 20 and 21 are required to be preserved, with the root protection zones indicated on Exhibit C-2. 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.

Additionally, trees number 11 and 16 above have root protection zones that were reduced by the arborist (exhibit A-2). The applicant must indicate clearly in writing on the development plans for lots 1, 4 and 5 that any 2" roots encountered outside of the root protection zone of trees numbered 11 and 16 (exhibit C-2) will require the applicant to contact a certified arborist to ensure these trees remain viable during construction on the site.

2. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
3. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
4. Prior to issuing the permits for residential construction on the lots: 1) The applicant shall obtain and have finalized plumbing permits for capping the existing sanitary lateral connection to the house on Lot 6 and providing a new lateral connection serving Lot 6 from the new sanitary sewer main in the public street; and 2) Install a driveway on lot 6, meeting Zoning Code section 33.266.
5. The applicant must post the private street with "No Parking" signs to the satisfaction of the Fire Bureau.
6. The building permit submittal for lots 1-7 must document how condition C.8 above has been met and whether or not the applicant is required to install residential sprinklers in the new houses on Lots 1-7 to the satisfaction of the Fire Bureau. If sprinklers are required, please refer to the final plat approval letter for details on which lots are required to provide sprinklers on the site.
7. The minimum front or rear building setback for lots 1-7 shall be 15 feet to assure that adequate space is available to accommodate a stormwater disposal facility that can comply with the requirements of the Stormwater Management Manual.
8. Vehicle access to lots 2 and 3 must be from the Private Street (Tract A).

Decision rendered by:  **on June 4, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed June 9, 2008

Staff Planner: Shawn Burgett

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 May 11, 2007, and was determined to be complete on November 5, 2007.

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 May 11, 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 requested that the 120-day review period be extended 135 days as stated with Exhibit A-5. The new 120th day is July 17, 2008.

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 June 23, 2008** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations are not subject to the appeal fee. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. 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 503-823-0625 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 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. Applicants Narrative
 - 2. Revised **Final** Arborist report dated 1/28/08
 - 3. Applicants Adjustment narrative
 - 4. Early Neighborhood Notification
 - 5. Applicants extensions to the 120 day clock, totaling 135 days
 - 6. Revised **Final** Stormwater Calculations for public and private streets dated 5/2/08
 - 7. Stormwater calculations provided 4/24/08
 - 8. Stormwater calculations provided 1/29/08
 - 9. Stormwater calculations provided 11/13/07
 - 10. Arborist report dated 12/6/08 (please refer to Exhibit A-2 above for most up to date info)
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Tree Preservation Plan (attached)
 - 3. Clearing and Grading Plan
 - 4. Original Site Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety
 - 8. ODOT

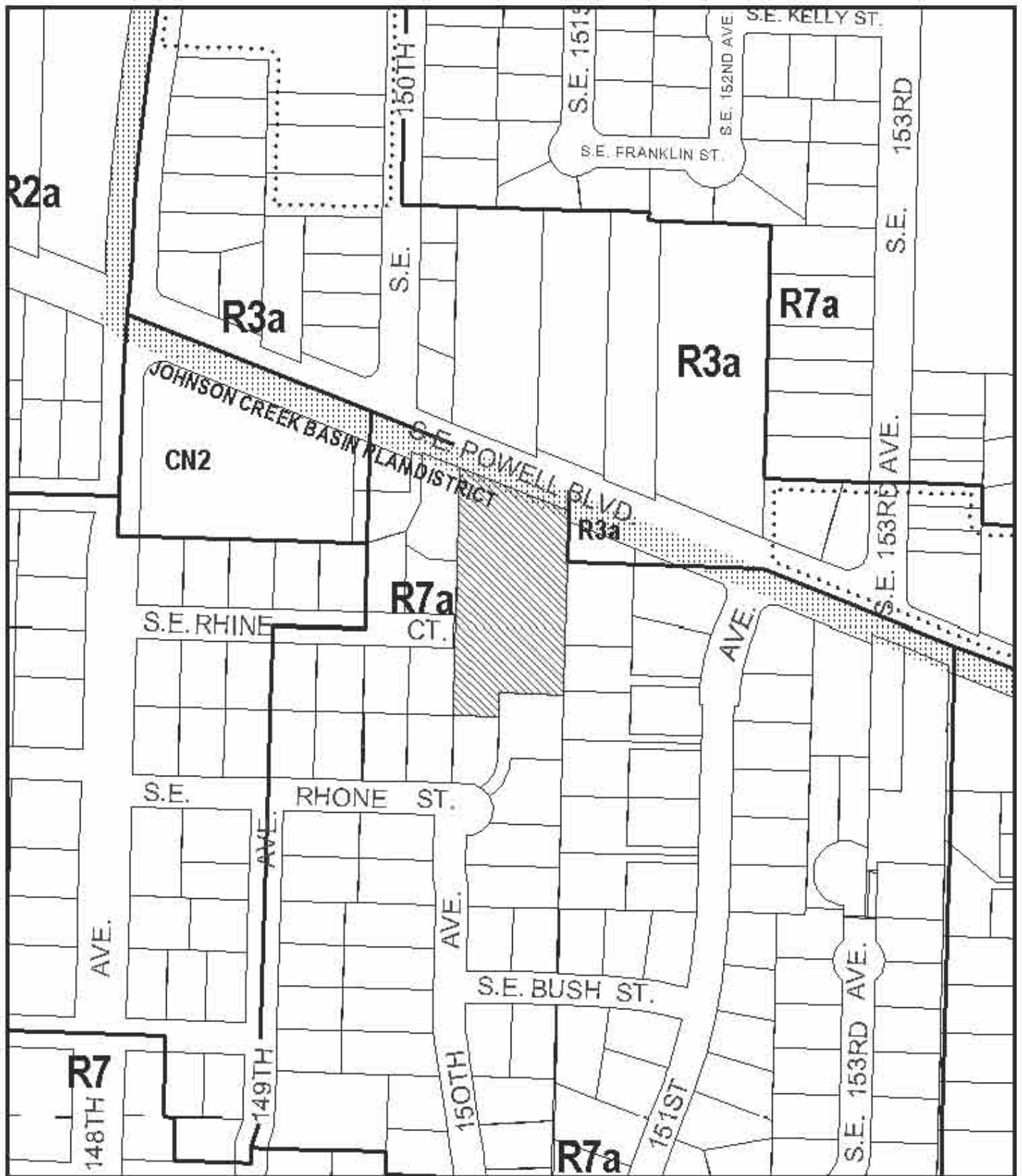
F. Correspondence:

1. Ralph & Josephine Nelson, 15002 SE Rhine Ct. 12/17/07
2. Joesph & Peggy Di Nucci, 14919 SE Rhine Ct. 12/17/07
3. Louis Cody, Land Use Chair, Centennial Community Association, 12/17/07.

G. Other:

1. Original LU Application
2. Site History Research
3. 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

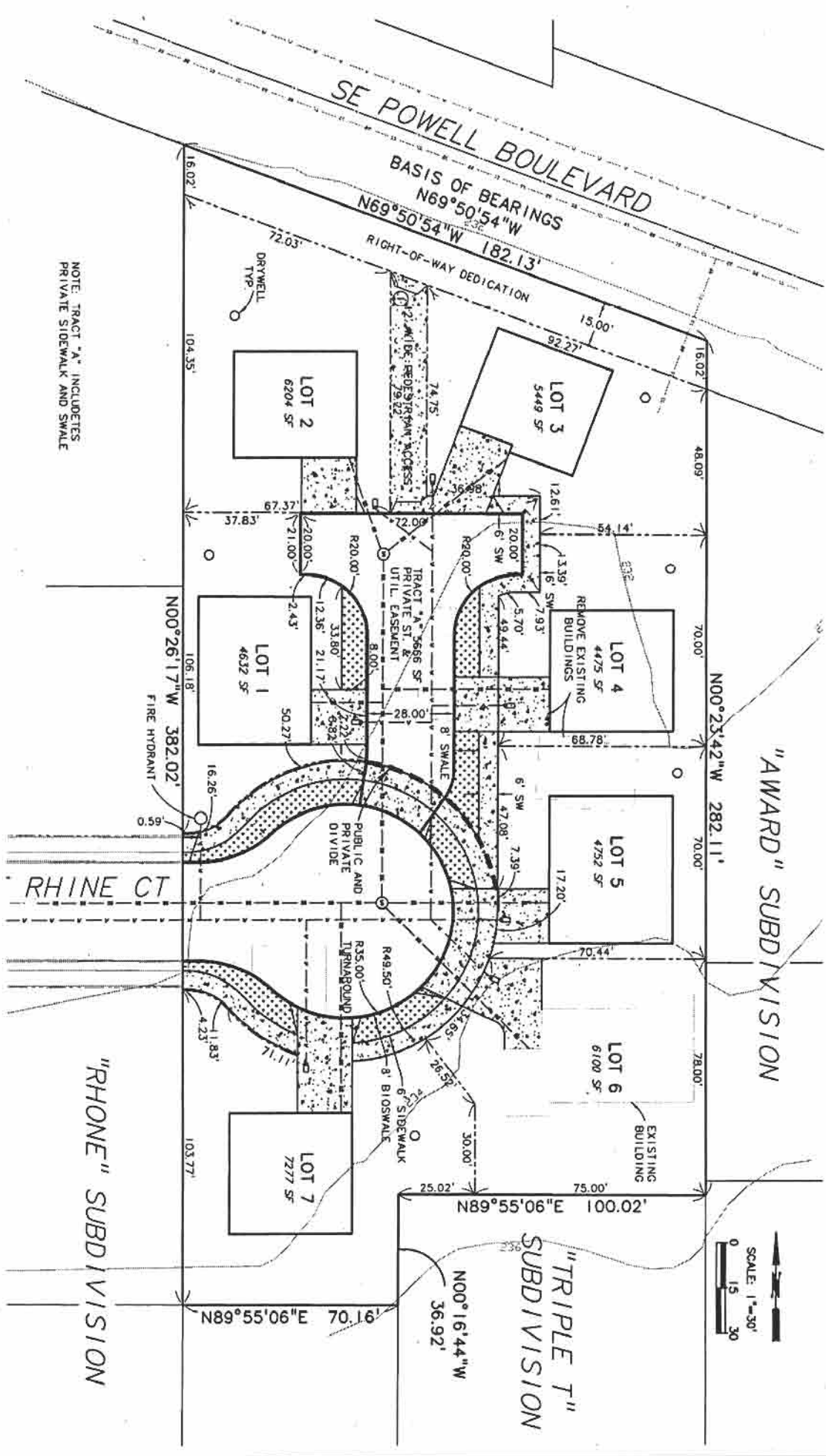
 Site



NORTH

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 07-129712 LDS
1/4 Section	3445
Scale	1 inch = 200 feet
State_Id	1S2E12CA 11700
Exhibit	B (Nov 7, 2007)



NOTE: TRACT "A" INCLUDES PRIVATE SIDEWALK AND SWALE

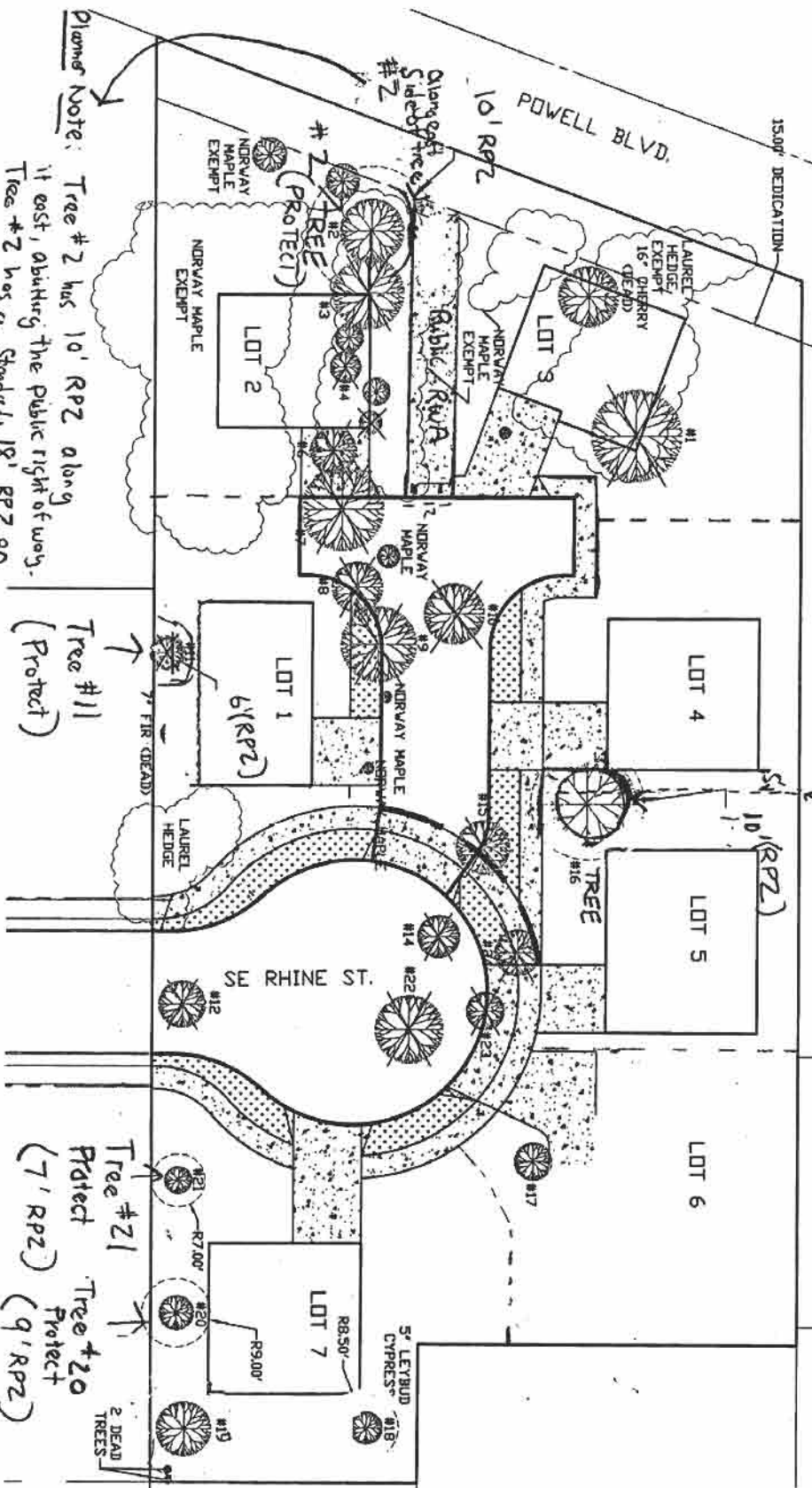


Prepared By	Checked By	Reviewed By
Drawn By	Approved By	
Contract No.	DATE	
15042 SE POWELL BLVD	07/28/2008	
SITE PLAN		

CONVERGENT PACIFIC
 8975 SW CENTER STREET
 TIGARD, OREGON 97221
 T: 503.747.3568 F: 503.747.3579

Protected trees: 2, 11, 16, 20, 21

Lot Line (Dashed Line)



Planned Note: Tree # 2 has 10' RPZ along it east, abutting the public right of way. Tree # 2 has a Standard, 18' RPZ on all other sides

SCALE: 1"=30'

CASE NO. 07-129712-L05
EXHIBIT C-2

TREE TO BE REMOVED
 TREE TO BE PROTECTED
 TREE TO BE REMOVED WITH ROOT ZONE PROTECTION

TREE INVENTORY		
NO.	SPECIES	STATUS
1	BAY/LABEL	24.2 TO BE REMOVED
2	O FIR	17 TO BE PROTECTED
3	O FIR	19 TO BE REMOVED
4	LOCUST	8 TO BE REMOVED
5	NOT USED	
6	LOCUST	12.5 TO BE REMOVED
7	O FIR	22 TO BE REMOVED
8	LOCUST	13.5 TO BE REMOVED
9	LOCUST	20 TO BE REMOVED
10	PEAR	16 TO BE REMOVED
11	HAWTHORNE	8.2 TO BE PROTECTED
12	WILD PLUM	12.3 TO BE REMOVED
13	WILD PLUM	11.2 HAZARD
14	APPLE	14.3 TO BE PROTECTED
15	WILD PLUM	26.5 TO BE PROTECTED
16	BAY/LABEL	10 DEAD
17	BAY/LABEL	8.5 TO BE PROTECTED
18	VINE LARPEE	13 TO BE PROTECTED
19	ALDER	9 TO BE PROTECTED
20	ALDER	18 TO BE PROTECTED
21	LELAND CYPRESS	10 TO BE REMOVED
22	CHERRY	12 TO BE REMOVED
23	PLUM	10 TO BE REMOVED
24	PLUM	12 TO BE REMOVED

Prepared By: _____
 Checked By: _____
 Approved By: _____
CONVERGENT PACIFIC
 8975 SW CENTER STREET
 TIGARD, OREGON 97221
 T: 503-747-3569 F: 503-747-3578

15042 SE POWELL BLVD
 SITE & TREE PLAN
 Date: 01/28/2008