



City of Portland
Bureau of Development Services
Land Use Services Division

1900 SW Fourth Ave. Suite 5000
Portland, Oregon 97201
Telephone: 503-823-7300
TDD: 503-823-6868
FAX: 503-823-5630
www.portlandonline.com/bds

Date: June 17, 2008
To: Interested Person
From: John Cole, Land Use Services
503-823-3475 / ColeJA@ci.portland.or.us

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 07-183133 LDS

GENERAL INFORMATION

Applicant: Hieu Din
7515 SE Evergreen St
Portland OR 97206

Owner: Viet Tran
3560 SE 130th Ave
Portland, OR 97236

Representative: Joe Ferguson
Ferguson Land Surveying
8134 SE Taylor St
Portland, OR 97215

Site Address: 3560 SE 130th Ave

Legal Description: TL 800 LOT 7, LINN PK
State ID No.: 1S2E11CA 00800
Tax Account No.: R500300970
Quarter Section: 3443
Neighborhood: Powellhurst-Gilbert, contact James Chasse at 503-762-0863.
Business District: Midway, contact Donna Dionne at 503-252-2017.
District Coalition: East Portland Neigh. Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin
Zoning: R2a – Residential 2,000 square feetwith'a' Alternative Design Density overlay

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

Proposal: The applicant proposes to divide this 10,141 square foot site into 4 smaller lots. Parcel 1 will be 3,116 and will contain the existing house to remain with the attached garage removed, to comply with setback requirements. Parcels 2-4 will range from 2,221 square feet to 2,452 square feet and will provide vacant sites for detached single dwelling development.

The applicant proposes on-site stormwater management with soakage trenches. One shared driveway will provide access to Parcels 2 and 3 and a second driveway will be shared by Parcels 1 and 4. The applicant proposes to preserve two 7-inch diameter birch trees along SE 130th

Avenue along with mitigation to comply with the Tree Preservation requirements of Chapter 33.630.

This subdivision proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units (see 33.660.110). For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year (See ORS 92.010).

Relevant Approval Criteria: The relevant criteria are found in Section **33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.**

ANALYSIS

Site and Vicinity: The site is a flat, rectangular property occupied by a single dwelling residence with an attached garage that is accessed by a gravel driveway. Several trees are located on the site. A wooden fence runs along the north and east property lines, separating the grassy back yard from an adjacent parking lot and access drive.

SE 130th Avenue is a local service street running south from SE Powell Boulevard, a major city traffic and transit street. The area between the subject site and SE Powell Boulevard is primarily developed with multi-dwelling units. The adjacent properties to the north and east are occupied by an apartment complex and associated parking areas. The area south of the site is characterized by single-dwelling development.

Zoning: The R2 designation is one of the City's multi-dwelling zones, which is intended to create and maintain higher density residential neighborhoods. The zone implements the comprehensive plan policies and designations for multi-dwelling housing.

The "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 25, 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: No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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	33.612	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 when the minimum density for the site 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	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 33.612 contains the lot standards applicable in the Multi-dwelling 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.

When single-dwelling or duplex development is proposed for some or all of the site, the applicant must show how the proposed lots can meet minimum density and not exceed the maximum density stated in Table 120-3. When development other than single-dwelling or duplex development is proposed, minimum and maximum density must be met at the time of development

The total site area shown on the applicant's survey is 10,630 square feet. Site area devoted to streets is subtracted from the total site area in order to calculate the minimum and maximum density. The applicant will be required to dedicate approximately 402 square feet of site area along the frontage of SE 130th Avenue for right-of-way purposes (as described later in this report). Therefore the resulting lot size for calculating density is 10,228 square feet.

In this case, Lots 1 through 4 are proposed for single dwelling development. Therefore, the density requirements for this site are calculated as follows:

Minimum = 10,228 square feet ÷ 2,500 square feet (minimum density from Table 120-3) = 4.09 (which rounds down to a minimum of 4 units, per 33.930.020.A).

Maximum = 10,228 square feet ÷ 2,000 square feet (maximum density from Table 120-3) = 5.11 (which rounds down to a maximum of 5 units, per 33.930.020.B).

The applicant is proposing 4 lots. The density standards are therefore met.

Lot Dimensions

The lot dimensional standards ensure that: (1) Each lot has enough room for development that meets all the requirements of the zoning code; (2) Lots are an appropriate size and shape so that development on each lot can be oriented toward the street as much as possible; (3) The multi-dwelling zones can be developed to full potential; and (4) Housing goals for the City are met.

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 Chapter 33.612 of the Zoning Code):

	R2 Zone Requirement	Proposed Lot 1	Proposed Lot 2	Proposed Lot 3	Proposed Lot 4
Lots for Attached or Detached Houses					
Minimum Lot Area	1,600 sq. ft.	3,116 sq. ft.	2,221 sq. ft.	2,352 sq. ft.	2,452 sq. ft.
Minimum Lot Width*	none	50 ft.	14 ft.	14 ft.	11 ft.
Minimum Lot Depth	none	63 ft.	116 ft.	116 ft.	116 ft.
Minimum Front Lot Line	10 ft.	50 ft.	14 ft.	14 ft.	11 ft.

*Width is measured from the midpoints of the side lot lines.

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)
673	Cherry	13	No	No	Optional	
674	Birch	7	No	No	Yes	6 ft.
675	Birch	12	No	Yes	Optional	
676	Birch	7	No	No	Yes*	6 ft.
677	Red Pine	11	No	Yes	No	
678	Pacific Dogwood	7	Yes	No	No	
679	Pacific Dogwood	6	Yes	No	No	
680	Port Orford Cedar	6	No	Yes	yes	
681	Port Orford Cedar	9	No	Yes	yes	
682	Douglas Fir	18	Yes	No	No	
683	Cherry	17	No	No	No	

*Final Street dedication requirements will occur prior to final plat in conjunction with engineered improvement plans. If final street dedication is 4.5 feet or less then Tree 676 may be able to be preserved.

The total non-exempt tree diameter on the site is 75 inches. The applicant proposes to preserve tree 674. If tree 674 alone is preserved this represents 9% of the total on-site tree diameter if both trees 674 and 676 can be preserved this represents 18% of total on-site dbh. Under either of these options the proposal does not meet the tree preservation options in 66.630.100. The applicant proposes instead to use the mitigation options of 33.630.300:

33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:

- A. As many trees as possible are preserved; and**
- B. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.**
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:**
 - 1. Minimum density;**
 - 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;**
 - 3. Implementation of an adopted street plan;**
 - 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;**
 - 5. In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone; or**

6. Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.

The site is less than 15,000 square feet in area. The applicant wishes to divide the site for detached housing, which is an allowed housing type in the R2 zone. The location of the existing trees on the site would prevent a land division that would result in a practicable arrangement of lots that could each contain a reasonable building area and still be able to meet the development standards of the R2 zone. Criterion C.4 above is met.

The site's multidwelling zone designation allows for a relatively intense use with high density. The minimum density for the site is 4 units, and the applicant has proposed 4 lots to be developed with detached single dwelling units. To accommodate three new dwelling units, a large portion of the site will be disturbed. Several trees along the frontage of SE 130th Avenue will fall the right-of-way dedication (discussed later in this report) or be compromised due to right of way improvements. The two trees proposed for preservation are located along the street frontage of the site but are not within the area dedicated to right-of-way. The remaining non-exempt trees are located in areas where the proposed driveways for the new lots will be located. The size of the site limits alternative configurations of the lots, and there is no other practicable location for driveways to serve the new lots. Therefore, the applicant has meet Criteria A, because as many trees as possible will be preserved.

The applicant has submitted a tree mitigation plan that anticipates preserving Tree #674, a 7" dbh Birch and planting thirteen new trees (1.5" dbh) resulting in a total of 26.5" of tree diameter on-site after development. This is equal to 35% of the total tree diameter on site prior to development and equivalent to meeting Option 1 of Chapter 33.630.100 which requires the preservation of 35% of the pre-development non exempt tree diameter.

If the applicant can preserve both tree #674 and #676 then a total of 14" dbh of trees will be preserved and the applicant would only have to plant 8 trees (1.5" dbh) in order to provide the equivalent of 35% of the predevelopment tree diameter

Either of these mitigation plans provides for approximately the same caliper inches as Option 1 of the Tree Preservation Chapter. Option 1 would require that 35% or 26 inches of the existing tree diameter on site be preserved. However, Section 33.248.020.H, known as the T1 tree planting standard, requires trees to be planted or preserved on new lots as part of the approval of future building permits. This T1 tree standard will require the planting of at least 3 inches of tree caliper per 1,000 square feet of site area, for new development on lots 2,3 and 4. This requirement will result in at least 18" of new tree diameter being planted on-site as a requirement of new construction.

There will be a limited amount of open space available on this site after its development. It will be impracticable to meet both the T1 planting requirements of Code Section 33.248.020 and plant additional 8-13 trees to meet the mitigation requirements of Code Section 33.630.300. There simply will not be enough room for a house footprint; driveway and remaining area to allow planted trees to grow. Therefore the mitigation requirements of 33.630.300 shall be met through payment into the City's Tree Planting fund as follows:

Prior to Final Plat approval the applicant's arborist shall submit a written determination if tree #676 can be preserved given final street improvement plans. If both trees #674 and #676 can be preserved then the applicant shall make payment to the City Tree Planting Fund for the equivalent of 12" dbh tree diameter. If only tree #674 can be preserved due to conflicts with street improvements then the applicant shall make a payment to the Tree Planting Fund for the equivalent of 19" dbh tree diameter. The current dollar value for payment to the Tree Fund is \$150.00 per inch dbh

Payments to the Tree Planting Fund will be used to plant trees in parks environmental restoration areas or other public properties within the Powellhurst-Gilbert Neighborhood or larger Johnson Creek Plan District.

Subject to such a condition Criteria B 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. 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 cesspool 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.

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

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

- Reciprocal Access Easements are proposed to allow shared use of driveways that will straddle proposed lot lines;

The Office of Transportation requires the applicant to provide shared driveway access to the site to reduce the size of curb cuts and provide adequate area for stormwater facilities to serve the public street improvements. Parcels 2 and 3 will be required to share one driveway and Parcels 1 and 4 will be required to share another driveway. Therefore one easement will be required over the relevant portions of Parcel 2 and Parcel 3, along with a separate easement over the relevant portions of Lots 1 and 4, to allow shared use of the new driveways.

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

"A Declaration of Maintenance agreement for reciprocal Access easement has been recorded as document no. _____, Multnomah County Deed Records."

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

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

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 89 feet of frontage on SE 130th Avenue. SE 130th Avenue is classified as City Walkway and a local service street for all other modes in the Transportation Element of the Comprehensive Plan. Tri-Met provides transit service approximately 266 feet from the site on SE Powell Boulevard via bus 9. Parking is currently allowed on SE 130th Avenue both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

SE 130th Avenue is improved with a paved roadway, and a gravel shoulder on both sides. There are no curbs, planter strips, or 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 curb and sidewalk improvements must be made in order to ensure that safe pedestrian travel is possible within the proposed development. To accommodate these improvements, as well as an associated stormwater facility discussed later in this report, additional right-of-way must be dedicated along the frontage of the site. The applicant will be required to dedicate at least 4.5 feet to accommodate 16 feet of street paving from the centerline and a sidewalk corridor of 13.5 feet. This dedication will accommodate future development for the high-density zoning at this location. With those improvements, three additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that curb and sidewalk improvements are made, and the required right-of-way dedication is shown on the Final Plat.

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 6-inch inch water main in SE 130th Avenue is available to serve the proposed development. Lot 1 has an existing water service from that main. See Exhibit E-3 for more details.

The Water Bureau has noted that the proposed street improvements may be located close enough to the existing water main to cause a conflict. If the proposed curb, gutters, or planter boxed are located less than 2 feet from the water main, then the water main must be relocated at the applicant's expense.

- The sanitary sewer standards of 33.652 have been verified. There is an existing 6-inch public sanitary sewer located in SE 130th Avenue that can serve the sanitary needs of the proposed lots. Lot 1 has an existing sewer service from that main. 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 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 the frontage of the site to City standards, with curbs and sidewalks (discussed earlier in this report). Stormwater from these new impervious areas will be directed into vegetated planters located along the frontage of SE 130th Avenue. BES has indicated that surface infiltration is the preferred method of public stormwater disposal at this site. The agency has reviewed the preliminary stormwater design and drainage study submitted by the applicant that proposes the use of vegetated planters in the right-of-way BES has found such an approach adequate to provide infiltration for the quantity of water generated from the new impervious areas. This is a preliminary finding only. Final engineering will occur in conjunction with the street improvement plans. 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 requires a Public Works Permit for the construction of such a planter. The applicant must provide engineered designs and financial guarantees of performance prior to final plat approval.

- **Lots 2-4:** Stormwater from these lots will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. Each of these lots has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably sized home. Site Development has indicated conceptual approval of the drywells. The Stormwater Design Drainage Study Report indicates that driving surfaces will be constructed of pervious pavers. Other stormwater management strategies will be acceptable provided they meet requirements of the City of Portland Stormwater Management Manual
- **Lot 1 (the lot with the existing house):** The existing house has downspouts that drain into underground pipes. The applicant has proposed directing the downspouts to splash blocks. Site Development has approved of downspouts that drain to splash blocks and has noted that they appear to meet the required setbacks. Prior to final plat approval, the applicant must install the splash blocks.

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 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 streets are proposed.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
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	Not applicable – There are no existing public dead-end street or pedestrian connections adjacent to the site.

Code Section	Topic	Applicability Findings
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 Powell Boulevard and SE Bush Street, which have a distance between them of approximately 1,030 feet. There are no other east-west 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 an east-west through street provided in the vicinity of the site. However, due to the site's proximity to SE Powell Boulevard, this would not be an ideal location for a new through street.

In addition, the site does not contain sufficient width to allow the creation of a public east-west through street. 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 an east-west 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 Master Street Plan does not indicate that a new through street or pedestrian connection is necessary at this location. Therefore, the proposal is consistent with the master street plan.

The only new through pedestrian connections included in the proposal are new sidewalks along the frontage of the site along SE 130th Avenue. This is a straight-line connection on which users will be able to see the ending of the pedestrian route from the entrance. For the reasons described above, 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: No new streets are included with this proposal. Therefore, this criterion is not applicable.

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 R2 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there is one Zoning Code standard that relates 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 5.16 feet from the new property line at its closest point. 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.

Additional Development Standards

- Frontyard paving – Code Section 33.266.120 Development Standards for Houses and duplexes contains standards for the provision of parking in conjunction with residential development. Subsection 3.a. limits the land area used for vehicles between the front lot line and the front building line to no more than 40% of the land area. (A 9-

foot wide vehicle area is allowed.) The example development of lot 3 does not meet this standard and will need to be revised.

- R2 Zone Development Standards – R2 development standards including *but not limited* to required outdoor area (33.120.240) and landscaped area (33.120.235) must be met at time of building permit. This may require revisions to the anticipated building footprints including the construction of attached housing on lots 2 and 3 in order to meet all of the applicable standards.

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 addressing requirements, fire vehicle access, and height limitations. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting along the SE 130th Avenue frontage during the street plan review or for building permit approval. This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 4-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:

- Street dedication and improvements
- Tree preservation and mitigation
- Shared driveway access

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 4-lot subdivision that will result in 4 lots for detached or attached housing, 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 vehicular areas and stormwater facilities including vegetated swales for driving surfaces as needed for each of the vacant lots. This supplemental plan must meet all applicable setback and lot coverage standards of the R2 zone.
- Root protection zones for tree#674 and #676 as may be appropriate.

B. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SE 130th Avenue. The required right-of-way dedication must be shown on the final plat.
2. A minimum 9-foot wide Reciprocal Access Easement shall be shown and labeled on the final plat, centered on the common property line between Lots 1 and 4, and a second 9-foot wide minimum easement centered on the common property line between Lots 2 and 3. The easements shall allow shared use of these areas for all of the purposes that a driveway would be typically used for.
3. A recording block for each of the maintenance agreement(s) as required by Condition C.5 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for Reciprocal Access Easement has been recorded as document no. _____, Multnomah County Deed Records."

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 130th Avenue. 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.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning of the existing sanitary sewer system on the site.

3. If any feature of the proposed street improvements is located less than 2 feet from the existing water main in SE 130th Avenue, the water line must be relocated at the applicant's expense. This requirement is administered by the Water Bureau.

Existing Development

4. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Lot 1. Specifically, rain drains and downspouts must be relocated and connected to an approved disposal point.

Tree Preservation

5. The Applicant shall submit an arborist report providing a final Tree Protection Plan for Tree #674 and #676 as may be appropriated considering final street improvement plans required by conditions B-1 and C-1 above. Payment into the City Tree Planting Fund shall be made to make up the difference between the amount of tree dbh that can be protected on site and 26"dbh which represents 35% of the pre-development, non-exempt dbh required to be protected under option 1 of 33.630.100 Tree Preservation Standards.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Reciprocal Access Easements area described in Condition B.2 above. The agreements shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The 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 and 3 shall be in conformance with the final tree protection plan submitted in compliance with Condition C 5 above. Encroachment into specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant will be required to plant street trees along the frontage of SE 130th Avenue. Such trees will be reviewed and approved by the City Forester during the street plan review or building permit application.
3. The applicant must meet the addressing requirements of the Fire Bureau for Lots 2 - 4.
4. The applicant must provide a fire accessway to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the gutter line.

Decision rendered by:  **on June 13, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed June 17, 2008

Staff Planner: John Cole

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 14, 2007, and was determined to be complete on March 19, 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 14, 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.

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 July 1, 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.

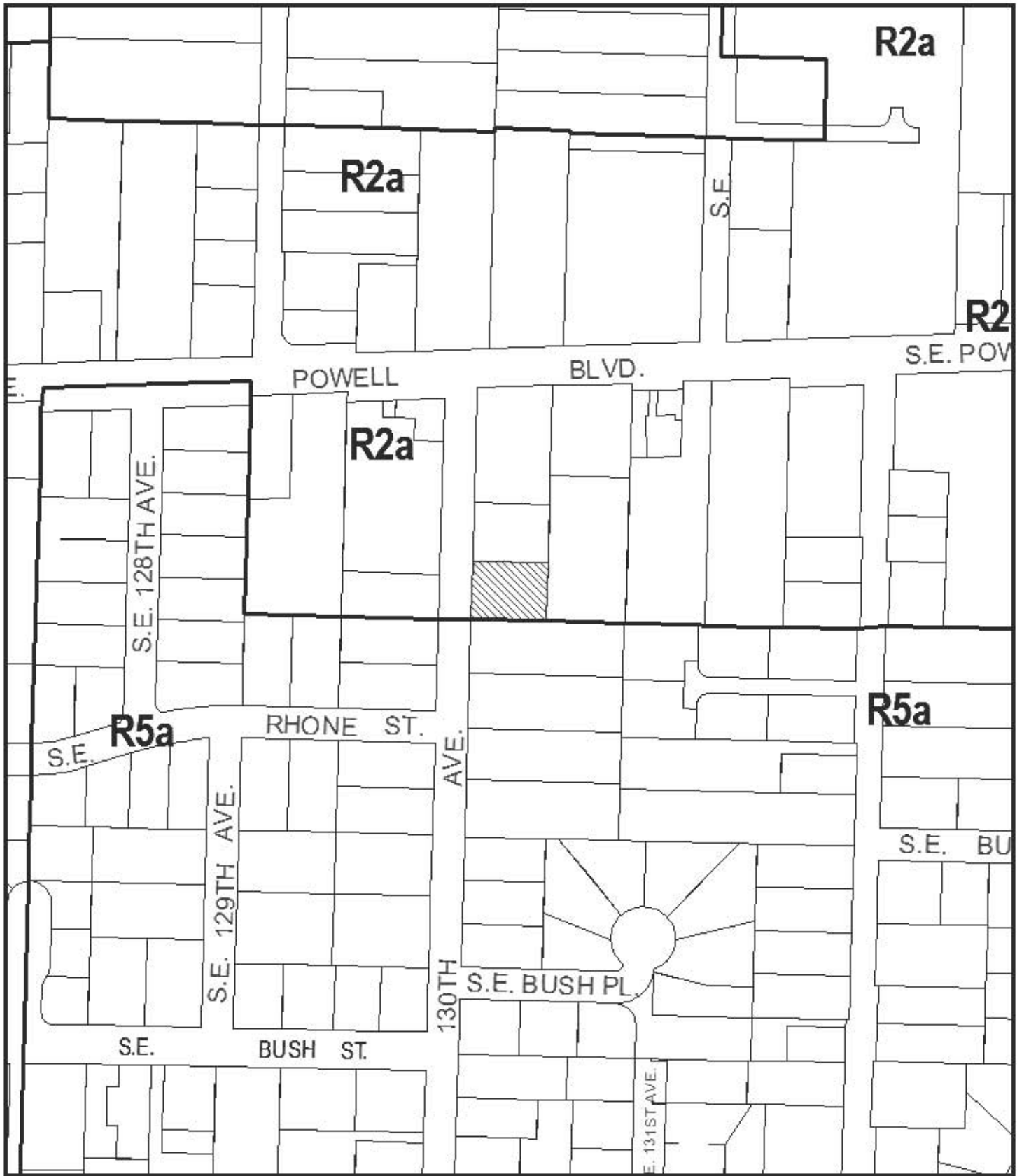
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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 Submittal
 - 1. Applicant's statement
 - 2. Arborist Report
 - 3. Drainage Study Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Full-size site plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
 - 3. Neighborhood contact
- 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
- F. Correspondence: None received
- 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



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	<u>LU 07-183133 LDS</u>
1/4 Section	<u>3443</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S2E11CA 800</u>
Exhibit	<u>B (Dec 18,2007)</u>

S
SCALE
=20'



20

ZONE IS R2

FOR TREE INFORMATION SEE TREE REF TREE EXPERTS.

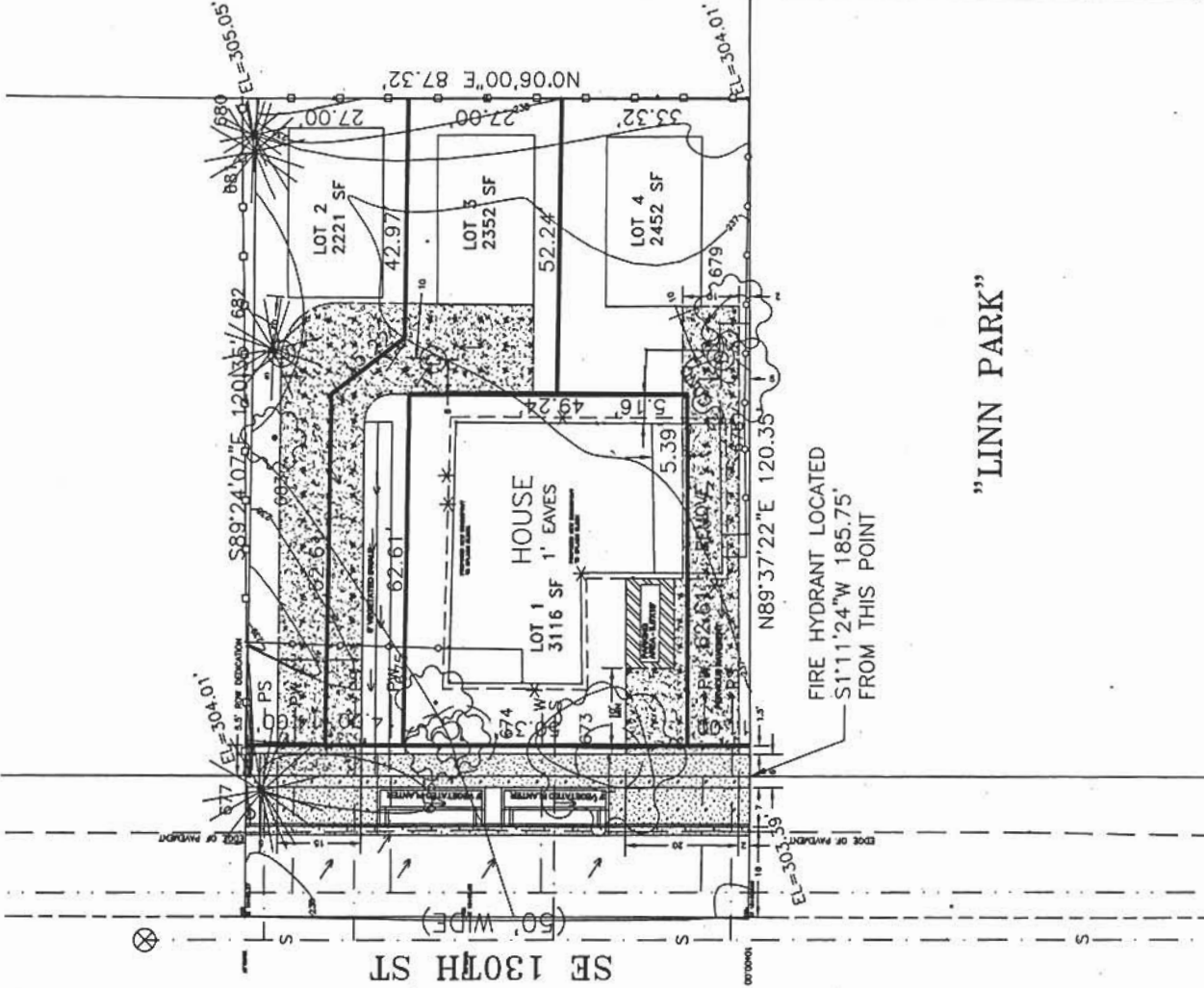
SOAKAGE TRENCH AND OTHER UTILITIES AT THE TIME OF BUILDING PERMITS.

DOWNSPOUTS ON EXISTING HOUSE WILL BLOCKS

UTILITIES ARE DRAWN FROM MAPPING

DIMENSIONS AND AREAS MAY VARY SL BOUNDARY RESOLUTION

DISTANCES SHOWN FOR EXISTING HOUS ARE PERPENDICULAR TO THE PROPOS FROM THE FOUNDATION CORNERS.



FIRE HYDRANT LOCATED
S1°11'24\"/>

\"/>



CASE NO. 07-1F3133
EXHIBIT C-1

SYMBOLS	
	POWER POLE
	GUY ANCHOR
	WATER METER
	GAS METER
	ELECTRIC METER
	WATER VALVE
	GAS VALVE
	MANHOLE
	CLEAN OUT
	CATCH BASIN
	FIRE HYDRANT
	DOWN SPOUTS
	WATER LINE
	GAS LINE