



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

FROM CONCEPT TO CONSTRUCTION

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Date: November 20, 2013
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NOTICE OF A TYPE IIx DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

We found out today that the original mailing was not legible. **There are no changes other than the mail date and the appeal expiration date.**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, OR 97301-1283. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 13-192750 LDP

GENERAL INFORMATION

Applicant: Emily Greene/Henneberry Eddy Architects
921 SW Washington, Suite 250 / Portland OR 97205

Property Owners: Francine G Reingold and Jeffrey A Reingold
3707 SW Chehalem Avenue / Portland OR 97239-1520

Site Address: 3701 SW Council Crest Drive

Legal Description: BLOCK 7 LOT 1-4 TL 12000, COUNCIL CREST PK
Tax Account No.: R180701050
State ID No.: 1S1E08DA 12000 **Quarter Section:** 3426
Neighborhood: Southwest Hills Residential League/Nancy Seton/503-224-3840
District Coalition: Southwest Neighborhoods Inc./Leonard Gard/503-823-4592
Zoning: Single Dwelling Residential 7,000 (R7)
Other Designations: Potential Landslide Hazard
Case Type: Land Division-Partition (LDP)
Procedure: Type IIx, an administrative decision with appeal to the Hearings Officer

Proposal: The applicant requests a **Land Division-Partition** in order to divide a 13,979 square foot lot into 2 parcels. Parcel 1 will be 6,053 square feet and the established house will remain on this parcel. Parcel 1 will be a corner lot with frontages on SW Council Crest and SW Chehalem. Parcel 2 will be 7,925 square feet and is to be developed with a new single dwelling residence. Parcel 2 will have frontage on and connect to public utilities within SW Chehalem.

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

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

92.010 defines “parcel” as a single unit of land created by a partition of land. The applicant’s proposal is to create 2 units of land (2 parcels). Therefore this land division is considered a partition.

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

FACTS

Site and Vicinity: The subject site is located near the top of a hillcrest bordered by SW Council Crest Drive and SW Chehalem Avenue. The site rises up steeply (4 to 9 feet) along the street frontages, which are bordered by retaining walls, and is otherwise relatively level. The north half of the site is developed with a single-story residence over a garage level that is built into the hillslope. The south half is developed with a landscaped yard, small retaining wall, and an accessory building. Large trees are located throughout the site.

The surrounding development consists of one and two-story houses on lots that have slight to steep slopes. The surrounding streets are winding, and generally correspond to the topography of the area. Much of the nearby residential area includes steep ravines with stream channels, which are located within environmental zones. Though the topography of the area limits connectivity, there are direct routes to and from the site in several directions. Other nearby features include Council Crest Park, which is located approximately 800 feet to the west.

Infrastructure:

- **Streets** – The site has approximately 120 feet of frontage along SW Council Crest Drive and approximately 114 feet of frontage on SW Chehalem Avenue. At this location, the City's Transportation System Plan classifies SW Council Crest Drive and SW Chehalem Avenue as Local Service streets for all modes except for one; SW Council Crest is also classified as a Community Transit street. The site is immediately served by Tri-Met bus service via route #51 (Vista) which runs along SW Council Crest Drive.

According to City GIS database, at this location, SW Council Crest is improved with 36-feet of paving and a 5-6-1 sidewalk corridor within a 60-foot wide right-of-way; parking is allowed on both side of the street. SW Chehalem is improved with 24-feet of paving and a 3-5-0 sidewalk corridor within a 40-foot wide right-of-way; parking is allowed on one side of this street.

- **Water Service** –There is an existing 5/8-inch metered service (Serial #21399309, Account #2985612200) which provides water to the existing house on proposed Parcel 1 from an 8-inch cast iron (CI) water main in SW Council Crest Drive. There is water available to proposed Parcel 2 from an existing 4-inch CI water main in SW Chehalem Avenue.

- **Sanitary Service** - There is an 8-inch vitrified clay public combined gravity sewer located in SW Chehalem Avenue (BES project # 21230), and there is an 8-inch HDPE public sanitary gravity sewer located in SW Council Crest Drive (BES project # 7398). There is an 8-inch concrete public combined gravity sewer located on the north side of the HDPE sanitary sewer.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. Bureau of Environmental Services (BES) has indicated that no public stormwater drainage improvement requirements will apply at this time, since there will be no property dedication or frontage improvement requirements for this project.

Zoning: The zoning designation for the site is **Single Dwelling Residential 7,000 (R7)**. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

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

Agency Review: Several Bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits “E” contain the complete responses.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **September 23, 2013**. No written responses have been received.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements are proposed or required.
I	33.639 - Solar Access	Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	No separate pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the R7 zone. The maximum density is one unit per 7,000 square feet, and because the site is within the potential landslide hazard area, there is no required minimum density. The applicant is proposing to divide the 13,979 square foot lot into 2 parcels for single dwelling residences, so the density standards are met.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R7 Zone	4,200	12,000	40	55	30
Parcel 1 (existing house)	6,053		49	111	49
Parcel 2	7,925		65	120	65

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

Based on the foregoing, the applicable density and lot dimension standards are met. Therefore, this criterion is met.

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

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

The applicant provided an arborist report prepared by Todd Prager & Associates LLC that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.3). A total of 35 trees have been identified. Three trees (Trees 13, 14, and 15) have been listed as “exempt”, because they are nuisance species. The other 32 trees are subject to the preservation requirements of this chapter.

The total non-exempt tree diameter on the site is 562 inches. The applicant proposes to preserve 8 trees (Trees 1, 2, 3, 28, 29, 30, 33, and 35), which comprise of 204 inches of diameter, or 36 percent of the total non-exempt tree diameter. This proposal complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total non-exempt tree diameter on the site to be preserved.

To demonstrate how the trees will be protected, the applicant provided a plan showing root protection zones (RPZ) for all the trees to be preserved (Exhibit C.1). The arborist report also includes an “alternative tree preservation plan”, as allowed per 33.248.065.C, which indicates that the standard RPZ will be provided for 3 of the trees and reduced RPZs will be provided for the other 5 trees. The arborist report indicate that the tree protection specifications outlined in his report will provide a level of protection equivalent to the standard RPZ.

The plan also includes tree protection for a tree on the neighboring lot to the south. Though the applicant is encouraged to work with the neighbor to protect that tree, the tree preservation provisions will only apply to the trees located on the subject site. As such, tree protection for the off-site tree will not be regulated by this plan.

In any event, to ensure that future owners of the parcels are aware of the tree preservation requirements for the proposed parcels, the applicant will be required to record an Acknowledgement of Tree Preservation Requirements at the time of final plat. The Acknowledgment will inform the owners that development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.3). With the implementation of this condition, this criterion will be met.

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

Findings: The site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site is reasonably limited.

In order to evaluate the proposal against these criteria, the applicant has submitted a geotechnical evaluation of the site and proposed land division, prepared by a Certified Engineering Geologist and a Geotechnical Engineer (Exhibit A.2). That report was evaluated by the Site Development Division of the Bureau of Development Services, the City agency that makes determinations regarding soil stability.

The applicant's geotechnical evaluation indicates that the risk of potential landslide hazard at the site is low, given the soil composition, topography, and other risk factors. Though the report notes there is some localized soil creep along the steep cutslope on the west side of the site, overall, the report concludes that the proposed land division will result in lots, buildings, services, and utilities that will not significantly increase the risk of landslide potential on the site or other properties in the vicinity of the site.

The report specifically recommends the following guidelines regarding development on the property:

- site preparation and grading work be limited to drier periods of the year;
- stormwater should be discharged to an off-site location;
- structural loads for the new residence may be supported with conventional spread footing foundations; and
- conventional cantilever retaining walls can be utilized to retain cuts or fills up to 10 feet high.

Site Development has concurred with the findings of the applicant's geotechnical report, and notes that further geotechnical evaluation may be required for specific building plans at the time of construction plan review. Based on these factors, this criterion is met.

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

Findings: 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.

Clearing and Grading: As noted above, the site has a Potential Landslide Hazard designation, so the applicant provided a Landslide Hazard Report (Exhibit A.2) that describes how clearing and grading should occur on the site to minimize erosion risks. The applicant also provided a Preliminary Clearing and Grading Plan (Exhibit C.4) and a Tree Protection Plan (Exhibit C.1) that designates areas on the site where grading should not occur in order to protect the roots of the trees on the site that will be preserved.

It is anticipated that the grading will primarily involve excavating for the basement and foundation and retaining walls of a new house on Parcel 2. To ensure the clearing and grading associated with preparation of the lots will occur in a way that will limit erosion concerns and assure that the preserved trees on the site will not be disturbed, the applicant will be required to submit clearing, grading and erosion control plans the Site Development Section of the Bureau of Development Services, at the time of building permit submittal on the individual lots. Site Development will review the grading plan against the applicant's Landslide Hazard Study, as well as any additional geotechnical information required at the time of permit submittal, to assure that the grading will not create any erosion risks. In addition the plans will be reviewed for compliance with the applicant's tree preservation plan and arborist report.

Land Suitability: The site is currently in residential use, and there is no record of any other use in the past. However, the plans show a drain crossing the proposed property line. Based on a phone conversation with the applicant on November 1, 2013, the drain is believed to serve an existing patio, but the location of the pipes or disposal point for the drain are not known to the applicant at this time. To ensure the drainage system for the patio does not create a hazard for Parcel 2, the applicant must obtain a plumbing permit to relocate all piping associated with the patio drain and provide the as-built drain and disposal system on the Supplemental Plan to demonstrate the drain and all associated piping is located entirely within Parcel 1, prior to final plat approval.

Similarly, the applicant has proposed to remove a shed located on proposed Parcel 2. In order to ensure that parcel is suitable for development, conditions will be imposed for the removal of the shed, prior to final plat approval.

Otherwise, with erosion controls and tree protection, as indicated above, the new lots are considered suitable for new development.

With the implementation of the noted conditions, this criterion will be met.

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

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

To address the transportation- related approval criteria, the applicant provided a Traffic Impact Study (TIS) prepared by a professional traffic consultant. Portland Transportation reviewed the proposal and the study and provided the following comments:

Level of Service: Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

- 1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.*
- 2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.*

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

To estimate the trips generated by the proposed partition to create two parcels for the construction of a new single-family residence, trip rates from the manual TRIP GENERATION, 9th Edition, published by the Institute of Transportation Engineers (ITE) were used. The trip generation calculations show that the additional home is projected to result in 1 new trip during the morning peak hour and 1 additional trip during the evening peak hour. The new home is projected to result in 10 new daily trips.

In order to ensure that the nearby transportation system is capable of supporting the new trips from the proposed residential partition, several nearby intersections were analyzed using observations made by the applicant's traffic consultant. With very little delay observed, and with no related queuing issues, the capacity of said intersections are operating at respective levels that currently exceeds performance measures and will continue to do so with the addition of site trips from the proposed residential land division.

Vehicle access and loading: The site is located near Council Crest Park, therefore vehicle access to the site is limited to a few streets through the west hills area of the City. Though the topography of the area limits connectivity, there are reasonably direct routes to and from the site in several directions and with access to arterial roadways. There are no access restrictions in vicinity of the site. Loading is expected to take place either on the subject parcels via existing and new driveways and/or along the streets in proximity to the subject site where parking is allowed (NOTE: On-street parking is not allowed on the subject site side of SW Chehalem but is allowed on the opposite side of the street.)

On-street parking impacts: The submitted plans provided in relation to the subject land division show a driveway that is wide enough to accommodate at least vehicles, and supposedly that will serve as

access to at least a 2-car garage. It reasonable to suggest then, that there will be at least 4 spaces on site for parking opportunities.

With regard to on-street parking, the available on street parking spaces will not be impacted as a result of the proposed development (new house with accompanying curb cut/driveway) because, as mentioned previously, there is no on-street parking allowed on the east side (subject site side) of SW Chehalem. The applicant's traffic consultant conducted an observation during the late evening period associated with the highest demand for on-street parking related to residential uses, to estimate the current on-street parking supply/demand. Within proximity to the site, there are approximately 18 on-street parking spaces available for use. During the observation, 3 vehicles were observed utilizing the parking along the street(s). There are more than sufficient on-street parking opportunities to accommodate the existing uses as well as the proposed land division.

Availability of transit service and facilities and connections to transit: The site is immediately served by Tri-Met bus service via route #51 (Vista) which runs along SW Council Crest Drive.

Impacts on the immediate and adjacent neighborhoods: The impacts associated with the additional lot that the proposed partition will create are expected to be minor, and primarily consist of the small increase in vehicular traffic associated with the new lot. As described previously, these added trips will not have a significant effect on efficiency or safety of the nearby street system, and the proposal is likely to significantly increase the demand for on-street parking, if at all. The proposal will therefore have minimal impacts on the neighborhood.

Safety for all modes: The applicant's traffic consultant examined crash data for the intersections of SW Chehalem/SW Council Crest and SW Greenway/SW Council Crest for the most recent available five years (2008-2012). No crashes were reported at the study intersections during this analysis period, and there were no apparent safety deficiencies noted during the consultant's site visit. Accordingly, the vicinity of the site is safe for motor vehicles.

A robust and complete system of sidewalks throughout the area provide for pedestrian safety and access in the neighborhood. SW Council Crest is identified as a "Shared Roadway" in the City's Official Bike/Walk Map. Frequent speed humps along SW Council Crest combine with the large number of curves in the site vicinity to keep travel speeds low. People bicycling can safely share the roadway with motorized traffic. The proposed residential partition will not negatively impact safety for any mode.

The vicinity of the proposed residential partition is currently safe for all modes and will not be adversely affected by the partition and subsequent construction of an additional home.

The impact to the transportation system resulting from construction of an additional single family home will be minimal. New site trips are not expected to significantly alter the operation or safety of the existing facilities, and on-street parking in the area is sufficient to meet the new demand. The transportation impact approval criterion is met for the proposed partition, as the transportation system is capable of safely supporting the proposed use in addition to existing uses.

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

33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.

The Water Bureau has indicated that service is available to the site, as noted on page 2 of this report. The water service standards of 33.651 have been verified.

33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

The Bureau of Environmental Services (BES) has indicated that service is available to the site, as noted on page 2 of this report. The sanitary sewer service standards of 33.652 have been verified.

33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 & E.5

No stormwater tract is proposed or required. Therefore, criterion A is not applicable. BES provided the following comments about the proposed stormwater management methods:

BES has reviewed the stormwater report from KPFF dated August 2, 2013. This site is located in a landslide hazard area. Foster-Gambee Geotechnical provided BDS Site Development with a landslide hazard study that recommended stormwater not be disposed onsite. Therefore stormwater runoff from development of this site must be discharged off-site to the public sewer system after treatment and detention.

BES has noted no objections to the following:

- **Parcel 1 (existing house):** The existing house has downspouts that drain into underground pipes. *BES has indicated that the applicant's site plan shows that the existing sanitary and storm lines combine on the north side of the house and a combined lateral runs north to connect to the public sanitary-only sewer located in SW Council Crest Drive.*
- **Parcel 2:** BES notes *the applicant proposes a vegetated flow-through planter sized per the Presumptive Approach. The applicant provided sufficient surveyed topography information for the purposes of land use review to demonstrate that stormwater runoff from Parcel 2 can be directed to a weephole in curb along SW Chehalem and that surface flow of stormwater runoff will flow to the catch basin located in SW Chehalem near the northwest corner of this site.*

Based on these factors, this criterion is met.

33.654.110.B.1 Through streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. Portland Transportation evaluated the proposal and provided the following:

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The above referenced connectivity goals are generally met in the area, even taking into consideration the challenging topographical constraints throughout the neighborhood. PBOT has no concerns relative to furthering the City's connectivity goals through the subject site.

The City's Pedestrian Design Guide recommends a 10-ft wide sidewalk corridor (0.5-ft curb/ 4-ft wide furnishing zone, 5-ft wide sidewalk/0.5-ft frontage zone) for streets classified as Local Service & abutting R7-zoned lots. The site's existing SW Council Crest frontage conditions exceed this standard; the site's existing SW Chehalem frontage improvements do not satisfy this standard. However, the existing conditions along SW Chehalem meet all of the conditions of TRN 1.22 (PBOT Administrative Rule), accordingly, in relation to the eventual Building Permit for the new house, there will be no property dedication or frontage improvement requirements.

For the reasons described above, this criterion is met.

33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment
Portland Transportation has evaluated the proposal and provided the following comments:

The City's Pedestrian Design Guide recommends a 10-foot wide sidewalk corridor (0.5-ft curb/ 4-ft wide furnishing zone, 5-ft wide sidewalk/0.5-ft frontage zone) for streets classified as Local Service and abutting R7-zoned lots. The site's existing SW Council Crest frontage conditions exceed this standard; the site's existing SW Chehalem frontage improvements do not satisfy this standard. However, the existing conditions along SW Chehalem meet all of the conditions of TRN 1.22 (PBOT Administrative Rule), accordingly, in relation to the eventual Building Permit for the new house, there will be no property dedication or frontage improvement requirements.

Based on these factors, Portland Transportation has indicated that the right-of-way are of sufficient width and no right-of-way dedication is warranted by this proposal. As such, this criterion is met.

33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

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

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The 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 R7 zone. Per 33.700.015, if a proposed land division will cause conforming development to move out of conformance with any regulation of the zoning code, and if the regulation may be adjusted, the land division request must include a request for an adjustment (Please see section on Other Technical Standards for Building Code standards.)

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

- **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 8 feet from the new property line. 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.
- **Accessory Structures:** In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 must be removed prior to final plat. Demolition permits are required for structures over 200 square feet in area. The existing shed is approximately 400 square feet, based on the existing conditions plan. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.

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 and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- Fire Bureau: The applicant must meet the requirements of the Fire Bureau in regards to fire flow/water supply, fire hydrant spacing, addressing of structures, and aerial fire department access roads.
- Urban Forestry: There are five existing street trees adjacent to SW Council Crest Drive. These trees are to be protected and preserved. A written permit from the City Forester is required to remove, destroy, cut (including roots), break, injure, or plant any tree of any size in or upon any street, park, or public area.

CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions.

The primary issues identified with this proposal are:

- Tree Preservation for Parcels 1 and 2
- Removal of accessory structures from Parcel 2
- Reconfiguration of patio drain for Parcel 1
- Fire Bureau requirements for fire flow, hydrants, addressing, and access.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in 2 standard lots for single dwelling development, 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 for review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;

- Any other information specifically noted in the conditions listed below.

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

Utilities

1. The applicant shall ensure adequate hydrant flow and hydrant spacing, per Appendix B and Appendix C of the Fire Code, to the satisfaction of the Fire Bureau.

Existing Development

2. The applicant must obtain a finalized demolition permit for removing the shed on Parcel 2. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County, prior to final plat approval.
3. The applicant must obtain a plumbing permit to relocate all piping associated with the patio drain and provide the as-built drain and disposal system on the Supplemental Plan to demonstrate the drain and all associated piping is located entirely within Parcel 1, prior to final plat approval.

Required Legal Documents

4. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes tree preservation requirements that apply to Parcels 1 and 2. A copy of the approved Tree Preservation Plan must be included as an exhibit to the acknowledgement. The acknowledgment shall be recorded with Multnomah County and referenced on the final plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.1) and the applicant's arborist report (Exhibit A.3). Specifically, trees numbered 1, 2, 3, 28, 29, 30, 33, and 35 are required to be preserved, with the root protection zones indicated on Exhibit C.1. Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant must meet the addressing and aerial fire department access road requirements to the satisfaction of the Fire Bureau.

Staff Planner: Kate Green

Decision rendered by: Kimberly Tallant **on November 13, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed November 20, 2013

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 August 14, 2013, and was determined to be complete on September 19, 2013.

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 August 14, 2013.

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. Unless further extended by the applicant, **the 120 days will expire on January 17, 2014.**

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 December 4, 2013**, at 1900 SW Fourth Avenue. Appeals may be filed Tuesday through Friday on the first floor in the Development Services Center until 3 p.m. After 3 p.m. and on Mondays, 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

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

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of

the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St. NE, Suite 330, Salem, Oregon 97301 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.

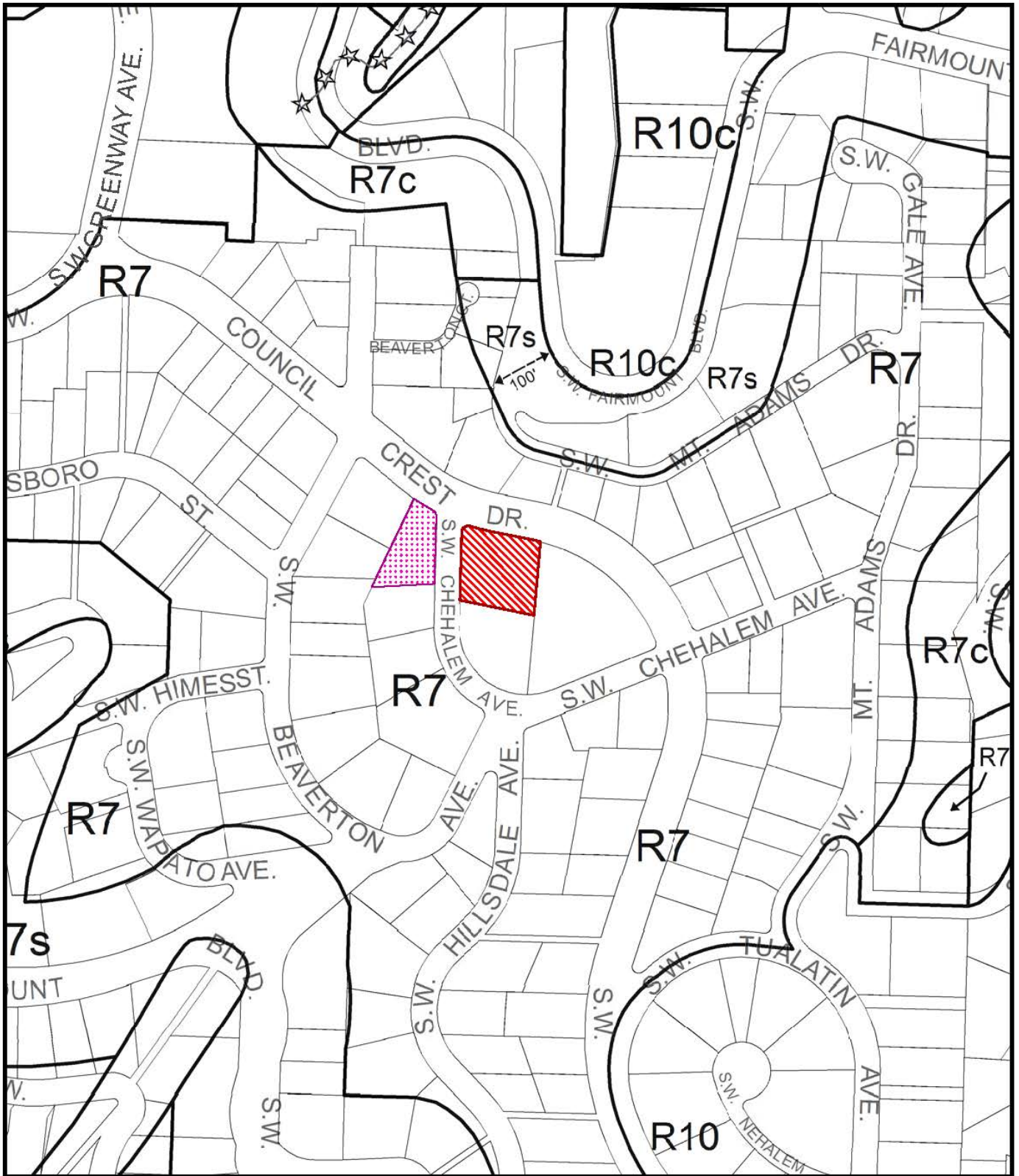
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. Supplemental Narrative
 - 2. Geotechnical Report
 - 3. Arborist Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Tree Preservation
 - 3. Existing Conditions Survey
 - 4. Proposed Clearing and Grading
 - 5. Proposed Improvements Plan
 - 6. Utility/Grading Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development/BDS
 - 6. Urban Forestry/Parks
 - 7. Life Safety/BDS
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Letter to applicant re: incomplete application
 - 3. Correspondence to/from applicant

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



ZONING

-  Site
-  Also Owned



File No. LU 13-192750 LDP
 1/4 Section 3426
 Scale 1 inch = 200 feet
 State_Id 1S1E08DA 12000
 Exhibit B (Aug 19, 2013)

TREE PRESERVATION
SCALE: 1/8" = 1'-0"

COMPREHENSIVE PLAN ZONE: RESIDENTIAL 7
EXISTING PROPERTY: 13,978.00 SF
PROPOSED PARCEL 1: 6053.15 SF
PROPOSED PARCEL 2: 7925.50 SF

GENERAL NOTES:

1. THERE ARE NO FLOOD HAZARD AREAS.
2. THERE ARE NOT EASEMENTS ON THE PROPERTY.
3. THERE ARE NO DRAINAGE WAYS, DITCHES OR SWALES.
4. TREES 13.3" DBH. THERE WILL BE NO CLEARING, GRADING, CONSTRUCTION, STORAGE OR SITE ACCESS AT THIS END OF THE SITE.
5. REFER TO ARCHITECT REPORT EXHIBIT A FOR DETAIL.
6. PRESERVED SITE TREES ARE AT THE WEST END OF THE SITE WHILE ALL PROPOSED UTILITY WORK IS AT THE EAST END OF THE SITE. PROPOSED UTILITY WORK WILL NOT DISTURB ROOT PROTECTION ZONES SOUTH WEST OF THE PROPERTY. WILL ALSO BE PROTECTED WITH A CONSTRUCTION FENCE. UTILITIES WILL BE LOCATED NORTH OF THIS PROTECTION ZONE.

LEGEND:

- LINE OF (E) RES.
- LINE OF ROOF
- LINE OF SET BACK
- (E) TREE TO REMAIN
- (E) TREE TO BE REMOVED
- (E) TREE ROOT PROTECTION ZONE
- CONSTRUCTION FENCE

FOR REGULATORY REVIEW ONLY.
NOT FOR CONSTRUCTION

Hennebery Eddy Architects Inc.
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PORTLAND, OR 97205
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503.237.4900
www.henneberyy.com

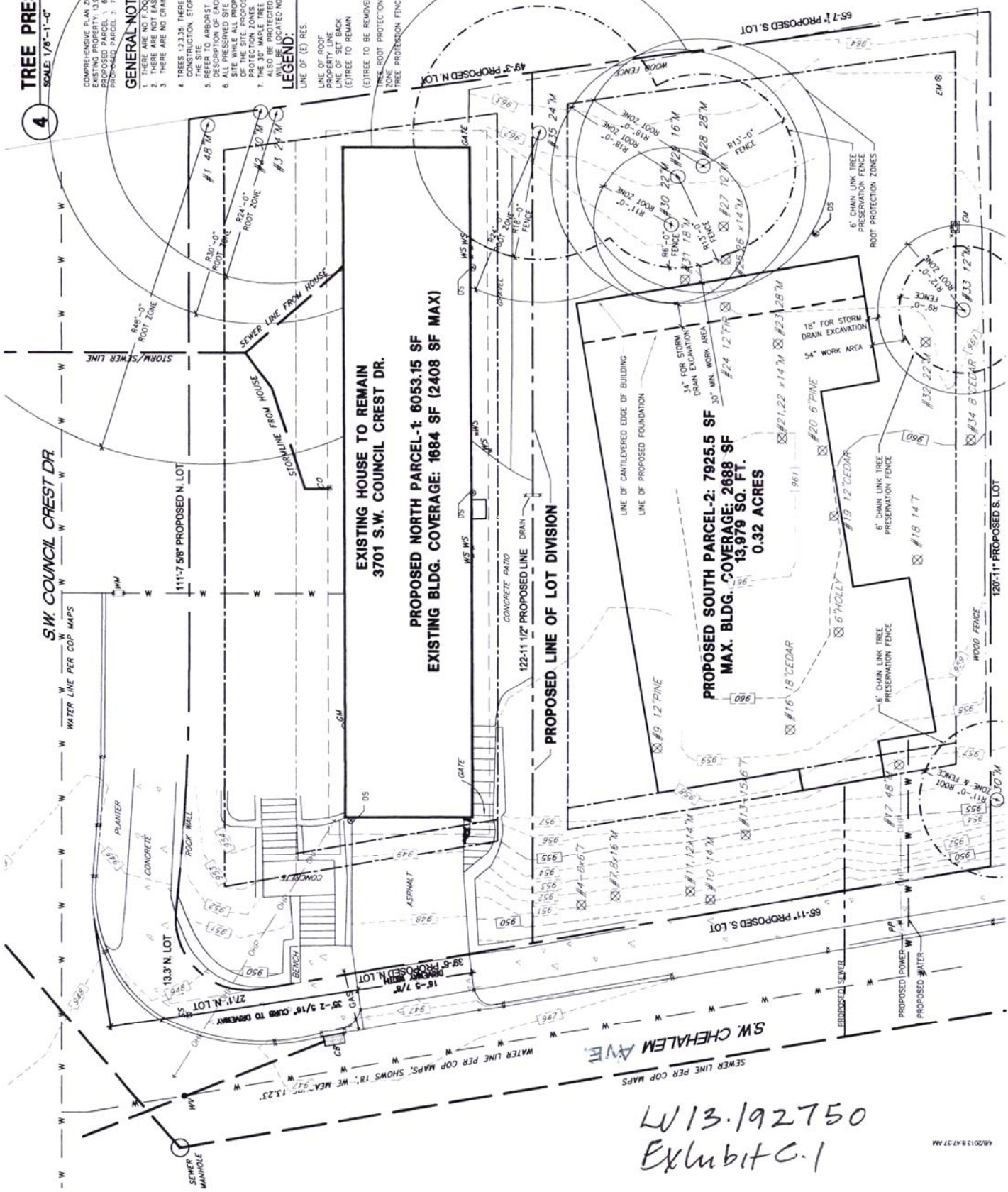
Chehalism Ave. Property
3701 SW Chehalism Ave
Portland, OR 97208

MEA Project No: 13003
Date: 14 AUGUST 2013
Revision: 18 SEPTEMBER 2013
24 SEPTEMBER 2013
06 NOVEMBER 2013

Drawn By: DAG
Checked by: Sheet
TREE PRESERVATION PLAN

A-4

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W13.192750
Exhibit C.1

4/20/13 8:47:37 AM