



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

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**Date:** March 14, 2014  
**To:** Interested Person  
**From:** Kathy Harnden, Land Use Services  
503-823-7318 / [Kathy.Harnden@portlandoregon.gov](mailto:Kathy.Harnden@portlandoregon.gov)

## **NOTICE OF A TYPE Ix 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 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 13-172017 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Doug Lubotsky  
4108 SW Chesapeak St  
Portland, OR 97239

**Owner:** Community Vision INC  
ATTN: Joe Wykowski  
1750 SW Skyline Blvd, Suite 102  
Portland, OR 97221

**Site Address:** 8744 SE RURAL ST

**Legal Description:** E 1/2 OF E 1/2 OF LOT 9, HOLLYWOOD  
**Tax Account No.:** R398200770  
**State ID No.:** 1S2E21BD 03900  
**Quarter Section:** 3739  
**Neighborhood:** Lents, contact Cora Potter at 503-823-4550.  
**Business District:** None  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.  
**Plan District:** None  
**Zoning:** Residential 5000 – (R5a)  
**Case Type:** Land Division Partition (LDP)  
**Procedure:** Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

**Proposal:** The applicant proposes to subdivide an approximately 9,869 square-foot site into 2 parcels, with one being a flag lot. Proposed Parcel 1, the flag lot, will be the larger lot with approximately 4076 square feet in the flag and 1,406 square feet in the pole, for a total of approximately 5,482 square feet for the parcel. Proposed Parcel 2, fronting SE Rural, will be

approximately 4,387 square feet. Each parcel will be developed with a new single dwelling residence. Of the 18 trees on the site, 12 are planned for removal. Water and sanitary sewer services are proposed via connections to public lines in SE Rural. Stormwater from the roof of each dwelling will be directed to separate drywells on each parcel. The driveway will be composed of pervious asphalt with any runoff going to a 2-foot-wide vegetative swale between it and the west property line. PBOT requires a street dedication of 9.5 feet at the front of the site for sidewalk improvements. The existing house will be removed and the existing cesspool will be decommissioned.

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

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

**Relevant Approval Criteria:** 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:** This approximately 9,869 square-foot site is basically flat and is covered by large trees, creating an almost park-like atmosphere behind an existing house. The house was originally constructed in 1914 and is a very small, rectangular structure, with a “stucco” type finish. The surrounding neighborhood is composed mostly of traditional, one-story houses of a style popular in the 1920s and ‘30s, with a few more recent developments scattered in the vicinity. A local school is located behind the houses, and across the street to the north. The Springwater Corridor passes about 600 feet southeast of the site.

### Infrastructure:

- **Streets** – The site has approximately 49.5-feet of frontage on SE Rural Street, which is classified as a Local Service Street in the Transportation System Plan (TSP). The site is located on the east side of SE Rural, about 220 feet east of its intersection with SE 87<sup>th</sup>, and is not served by nearby transit service. The nearest Tri-Met transit service is located on SE Flavel via Bus #19, about 840 feet south of the site, and on SE 82<sup>nd</sup> via Bus #72, over 1600 feet west of the site. There is a designated City Bikeway along SE Flavel and the Springwater Corridor is located just over 300 yards east of the site.

At this location, SE Rural Street is improved with a 32-foot wide paved roadway surface and curb. There is no existing pedestrian corridor along this section of SE Rural. In addition, there are bike facilities in the area including striped bike lanes along SE 46<sup>th</sup> Ave, and Shared Roadways along SE Henry and SE Glenwood, east and south, respectively, from the subject site.

Tri-Met provides transit service approximately 1600 feet west of the site on SE 82<sup>nd</sup>.

- **Water Service** – There is an existing 6-inch CI water main in SE Rural. The existing house is served by a 5/8-inch metered service from this main, which may potentially be used by a new house on Parcel 2. Water from this main is also available to serve any new construction on Parcel 1.
- **Sanitary Service** - There is an existing 8-inch PVC public gravity sewer main in SE Rural which flows into a public combined sewer main approximately 170 feet east of the

site. The gravity main provides service to the existing house on Parcel 2 and will be available for new construction on Parcel 1. A new lateral can be built to the public main within the frontage of Parcel 1 at the owner's expense.

An existing cesspool on the site was inspected for decommissioning in December 2013, per Permit No. RS 13-116603. The decommissioning portion of this Permit was finalized 12/20/13. Other portions of this permit are still under inspection.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. The applicant has proposed on-site drywells for development of two houses on this 2-lot partition site. BES has stated that if stormwater management is required for possible street improvements, that other means of treatment could be a viable alternative to constructing stormwater management facilities.

**Zoning:** The R5 designation is one of the City's single-dwelling zones which are intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

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

**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 **October 3, 2013**. 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.*

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.
D	33.632 - Potential Landslide Hazard Area	The site is not within the potential landslide hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
H	33.636 - Tracts and Easements	No tracts or easements have been proposed or will be required.
I	33.639 - Solar Access	All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.

J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.C.3.c - Turnarounds	No turnarounds are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the site.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The applicant is proposing a 2-parcel partition that will result in one standard and one flag lot. The applicant has been required to dedicate the first 12.5 feet of the site for public transportation. Density is based on the area of the lot prior to the required street dedication. The minimum and maximum densities for the site are as follows:

The 9,850 square-foot site has a minimum required density of 1 one and a maximum density of 2 units. The applicant is proposing 2 parcels in the R5 zone, one standard lot (Parcel 2) and one flag lot (Parcel 1), so the density standard are met.

The lot dimensions required and proposed 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)	Min. Flag Lot Width (feet)	Min. Flag Lot Depth (feet)
<b>R5 Zone</b>	3,000	8,500	36	50	30	40	40
Parcel 1	4,067.0 SF					49.19	82.68
Parcel 2	4,186.0 SF		37.45	107.58	37.45		

\* 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.

\*\*For flag lots: (1) width and depth are measured at the midpoint of the opposite lot lines in the "flag" portion of the lot; and (2) lot area calculations do not include the pole portion of the lot.

Flag Lots are allowed in limited circumstances, per 33.610.400. In this case, the original site dimensions are such that they preclude a lot configuration that meets the minimum lot

width standard. However, the proposed flag lot will provide a 152-foot-wide pole, which is connected to SE Rural Street, and which meets the lot width and depth standards for flag lots.

Further, the pole portion of Parcel 2 will provide off-street parking access for both proposed parcels, which minimizes the need for additional curb-cuts along the street and reduces the amount of impervious area needed for vehicle access. Shared vehicle access is required where practical, and is proposed by the applicant. A private access easement will be placed over the entirety of the pole to allow the shared use of the driveway (see further details in Criterion H, below).

Based on the foregoing, the applicable density and lot dimension standards will be met, and with a condition requiring a private access easement over the “pole” of Lot 1, this criterion will be met.

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

**Findings:** The regulations of Chapter 33.630 require tree preservation on sites to be developed and require mitigation for loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant provided an arborist report and tree inventory (Exhibits A.3 and A.4) that inventoried the trees within the land division site and evaluated their conditions. Several of the trees have been exempted because they are unhealthy or hazardous, or because they aren't wholly on the site, or are located in the street dedication area. Of the 181 non-exempt tree inches on the site, the applicant must preserve 35 percent, or a minimum of 57.75 inches of tree diameter. The applicant provided a tree preservation plan that indicates 136 tree diameter inches will be retained on site, including Trees 13 and 14, 38-inch and 28-inch diameter Redwoods on Parcels 2 and 1 respectively. Redwoods of this size are designated as Significant Trees, per Table 630-1. At this time, the applicant has no plans to remove any of the existing trees on Parcel 1, but only Trees 13 and 14 are required to be preserved for the purposes of this land use review. Preservation of these two trees will total 66 inches of preserved tree diameter, which exceeds the 35 percent preservation requirement of 57.75 inches.

Exhibit A.4, the applicant's Arborist Report, requires a 19-foot root protection zone (RPZ) around both Trees 13 and 14, except where the RPZ would cross adjacent property lines. The applicant's proposed site plans show that the parking pad/garage for the new house to be developed on Parcel 2, the front lot, would be located within these RPZs, and the proposed house for Parcel 1 would be within the RPZ of Tree 1.

The required front setback in the R5 zone is 10 feet. The applicant's site plans show a proposed setback of 20 feet from the front lot line. If proposed development on Parcel 2 were moved forward on the site to the minimum 10-foot setback from the front lot line, it would provide enough area at the rear of the lot to meet the required 19-foot root protection zone for Tree 13.

On Parcel 1, the applicant has also shown a potential house footprint located within the 19-foot root protection zone of Tree 14, the 28-inch Redwood that the applicant also proposes to preserve on the site.

All development on these parcels must comply with the 19-foot root protection zone requirements stated in the Arborist's Report for Trees 13 and 14. A condition of approval shall require that all development on Parcels 1 and 2 shall meet the required 19-foot root protection zones of Tree 13, the 38-inch Redwood and Tree 14, the 28-inch Redwood.

Therefore, with conditions that proposed development on both Parcels 1 and 2 be located outside the required root protection zones of Trees 13 and 14, as discussed above, the Tree

Preservation requirements will be met. To ensure that this condition can be met, trees to be preserved and their required root protection zones, proposed building envelopes, and proposed stormwater facilities shall be shown on a supplemental plan that shall be submitted with the Final Plat review.

To ensure that future owners of the parcels are aware of the tree preservation requirements, the applicant must record an *Acknowledgement of Tree Preservation Requirements* at the time of final plat; and development on Parcels 1 and 2 must be carried out in conformance with the Tree Preservation Plan (Exhibit C.2) and the applicant's arborist reports (Exhibit A.3 and A.4).

With the implementation of these conditions, this criterion will be 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:** In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. No significant clearing or grading will be required on the site to make the new lots developable. In addition, no clearing and grading is allowed within the root protection zones of the trees on the site that are required to be preserved. To ensure that tree protections are in place prior to clearing and grading activities associated with the demolition and new development on the site, a condition is required that the required 6-foot tall chain link fencing for tree protection is installed prior to any development activity on the site. With this condition, this criterion will be met.

**Land Suitability:** The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. In addition, the existing cesspool must be decommissioned. To ensure that the new lots are suitable for development, permit 13-116603 RS, which is under review for demolition of all structures on the site, including sewer capping, must obtain final inspection prior to final plat approval.

With the above conditions regarding tree preservation and final inspection of the demolition permit, this criterion will be met.

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

**Findings:** No tracts are proposed or required for this land division. However, the following easements are required:

- A Private Access Easement shall be shown and labeled over the “flag pole” portion of Parcel 1 for the benefit of Parcel 2. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.

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

*“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”*

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,**

**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:

<p><b>33.651 Water Service standard</b> - See Exhibit E-3 for detailed bureau comments.</p> <p>The water standards of 33.651 have been verified. Water is available to serve the proposed development from the water main in SE Rural Avenue.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> - See Exhibit E-1 for detailed comments.</p> <p>The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary-only sewer located in SE Rural Street that can serve the sanitary needs of the proposed parcels. An existing lateral that served the previous house on Proposed Parcel 2 may be used to serve the new house on Parcel 2.</p> <p>A new lateral to serve Parcel 1 must be constructed to the public main at the applicant's or owner's expense at the time of development.</p> <p>Therefore, this criterion is met.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b>— See Exhibits E.1 &amp; E.5</p> <p>BES has verified that the stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater, and the applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> <li>• <b>Public Street Improvements:</b> As noted in the response from BES, Portland Transportation <i>requires new sidewalk construction in a pedestrian corridor where a curb and paved street already exist. Constructing the sidewalk so that it slopes toward a vegetated area and/or planting street trees may be a viable alternative to constructing stormwater management facilities, and will be reviewed with the public works permit.</i></li> </ul> <p><b>Parcels 1 and 2:</b> Stormwater from these parcels will be directed to individual drywells that will treat the water and slowly infiltrate it into the ground. BES has indicated conceptual approval of the drywells, but has also indicated that the applicant must provide additional design details at the time of building permit submittal. Further, BES has noted that additional infiltration testing may be required for the proposed driveway's pervious pavement to be sure it meets the 10-year storm event requirements.</p>
<p><b>33.654.110.B.1 -Through streets and pedestrian connections</b>  <b>33.654.130.B - Extension of existing public dead-end streets &amp; pedestrian connections</b>  <b>33.654.130.C - Future extension of proposed dead-end streets &amp; pedestrian connections</b></p> <p>Generally, through streets should be provided no more than 530 feet apart and at least 200 feet apart. The block on which the subject property is located does not meet the noted spacing requirements; however, as outlined in the response from Portland Transportation: <i>No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The subject site is located on a block that is much longer than either of the above noted spacing goals. A review of City mapping resources shows a history of numerous flag-lot type developments along both SE Rural and SE Knapp (south side of the block). Said lot configuration approval throughout the years has rendered it impossible for further street or pedestrian connections without impacting existing development on the subject block and beyond. PBOT has no concerns relative to connectivity or locations of rights-of-way</i></p>

*associates with the proposed land division partition.* For the reasons described above, this criterion is met.

**33.641 – Transportation Impacts – 33.641.020 and 33.641.030**  
**33.654.120.B & C Width and elements of the street right-of-way**  
**33.654.130.D Partial Rights of way**

As outlined in the response from Portland Transportation, the proposed land division will create two new parcels (from the existing lot) that will accommodate one new detached single-family home each, although there will be a net increase of only one additional house on the site. Referring to the ITE Trip Generation Manual, 9<sup>th</sup> Edition, there will be 1 new AM peak hour trip and 1 additional PM peak hour trip (10 additional total daily trips) that may result from the development proposal on the site. The new peak hour trips are insignificant and do not warrant any mitigation to nearby intersections. The impacts to the area's intersections most likely to be effected by the additional project-related trip generation will be negligible. The intersections will continue to operate at current levels without significant degradation from the vehicle trips generated by the proposed project factored into the analysis.

Access to the site will be via a shared driveway along the pole portion of proposed Parcel 1, which minimizes impacts to on-street parking and to potential conflicts to pedestrians and bicycles. With on-site parking spaces being provided, and the required Private Access Easement noted in Section H on page 6 above, impacts to on-street parking are further minimized.

The insignificant number of additional vehicles trips expected to be generated by the proposed project will not have any measurable impacts on the immediate or adjacent neighborhoods.

Transit is available approximately 1600 feet east of the subject site along SE 82nd.

Given the area in which the site is located, the minimal increase in vehicle trips that will be generated by the proposed partition, and the classification of the streets within the transportation system, Portland Transportation expects that the transportation system will be able to support the existing development in the area as well as the proposed development.

Based on these factors, Portland Transportation determined that no significant negative impacts are expected to occur in relation to any of the other evaluation factors, including 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.

*With regard to the width and elements in the right-of-way, Portland Transportation notes that at this location, SE Rural is improved with 32-ft of paving and a curb only, (no sidewalk) within a 40-ft wide r.o.w.*

*For Local Service streets abutting sites zoned R5, the City's Pedestrian Design Guide recommends an 11-ft wide sidewalk corridors (0.5-ft curb, 4-ft wide frontage zone, 6-ft wide sidewalk & 0.5-ft frontage zone). In relation to the Building Permits associated with the construction of the new homes, the applicant will be required to improve the frontage of the associated lots to the satisfaction of the City Engineer. There is approximately 1 to 2 feet of public r.o.w. behind the existing curb. Accordingly, to accommodate the above referenced 11-ft wide sidewalk corridor, the applicant must dedicate 9-10 ft of property, to be determined by a survey). The dedication of property can occur during the Final Plat stage of the land division process.*

With the conditions of approval for the right of way dedication area to be confirmed on the final plat, and sidewalk corridor improvements completed at the time of development, and that access to both Parcels 1 and 2 will be limited to the single curb cut/driveway associated with the pole portion of Proposed Parcel 1, these criteria will be 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, and this criterion will be 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.

**Future Development:** Among the various development standards that will be applicable to this lot, the applicant should take note of:

- Flag Lots-special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F). These standards apply to Parcel 1, the flag lot.

**Existing Development:** The existing development, a small house on proposed Parcel 2, will not remain on the site. The applicant is in the process of finalizing the necessary permits to remove the house so the division of the property will not cause the structure to move out of conformance or further out of conformance with any development standard applicable in the R7 zone. Therefore, this land division proposal can meet the requirements of 33.700.015.

**OTHER TECHNICAL REQUIREMENTS**

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

<b>Bureau</b>	<b>Code Authority and Topic</b>
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 - Water availability
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17; 2008 Stormwater Manual Sewer availability & Stormwater Management
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 - Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17, Transportation System Plan Design of public street
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Titles 24 -27, Admin Rules for Private Rights of Way Building Code, Erosion Control, Flood plain, Site Development & Private Streets

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 regard to addressing requirements for flag lots, posting of "No Parking" signs in the flag pole driveway, and a maintenance agreement for the driveway. Addition requirements include: ensuring adequate hydrant flow, fire apparatus access, aerial fire department access roads, and driving surfaces. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

## CONCLUSIONS

The applicant has proposed a 2-parcel partition, as shown on the attached preliminary plan (Exhibit C.2). 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:

- Demolition of existing structures (house and garage) and decommissioning of cesspools
- Flag lot provisions
- Maintenance agreements for access easements
- Acknowledgement of Tree Preservation and Tree Protection Plan
- Right-of-way dedication and sidewalk corridor improvements
- Fire Bureau access, hydrant flow, and addressing requirements

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 one standard lot and one flag lot, as illustrated with Exhibit C.2, 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;
- Proposed driveways and off-street vehicle parking areas;
- The proposed general location of future building footprints and stormwater facilities for each of the parcels, including the location of approvable stormwater management for the paved driveway;
- The location of trees to be preserved and their root protection zones;
- The fire access lane with a turning radius to the satisfaction of the Fire Bureau;
- Any other information specifically noted in the conditions listed below.

**B. The final plat must show the following:**

1. The applicant shall meet the street dedication requirements of the City Engineer for SE Rural Avenue. The required right-of-way dedication must be shown on the final plat.
2. A Private Access Easement shall be shown and labeled over the “flag pole” portion of Parcel 1 for the benefit of Parcel 2. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions C.2, C.5, and C.6 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records.”

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

### Utilities

1. The applicant shall meet the requirements of the Fire Bureau for turning radius.
2. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant and spacing. The applicant must provide

verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or provide an approved Fire Code Appeal prior final plat approval.

3. The applicant must meet the requirements of the Fire Bureau for providing an adequate fire access way for Parcel 1, as required in Chapter 5 of the Oregon Fire Code. Alternately, the applicant will be required to install residential sprinklers in the new house on Parcel 1, if applying the exception. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

#### **Existing Development**

4. Existing permit, 13-116603 for demolition of the existing house must receive final inspection approval prior to final plat approval.

#### **Required Legal Documents**

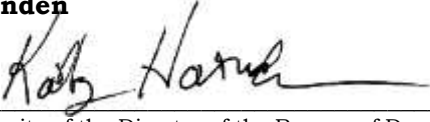
5. A Maintenance Agreement shall be executed for the Private Access Easement described in Condition B.2 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. In addition, it must detail the required "No Parking" signs, responsibility and process for addressing 'no parking' replacement signs. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form.
6. If required by the Fire Bureau, the applicant shall execute an Acknowledgement of Special Land Use conditions for sprinklers in the dwellings. The acknowledgement(s) shall be recorded with Multnomah County, and referenced on the final plat.
7. The applicant shall execute an Acknowledgement of Tree Preservation Requirements that notes the tree preservation requirements applicable to Parcel 1 and Parcel 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 Parcel 1 shall be in conformance with the Preliminary Land Division Plan (Exhibit C.4) and the applicant's Arborist Report and Tree Preservation Plan (Exhibits A.3 and A.4). Specifically, Trees 13 and 14 (38-inch and 28-inch, respectively, *Sequoia sempervirens*) are required to be preserved, with the 19-foot radius root protection zones indicated on Exhibit C.2. Tree protection fencing is required along the root protection zone of each tree to be preserved during any construction activity on the site, including driveway construction and paving as well as building construction and drywell installation. Fences must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.
2. The required 6-foot tall chain link tree protection fencing shall be installed prior to any development activity on the site.
3. The applicant must post the flag pole driveway for Parcel 1 with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the sign must be shown on the development permit.

4. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 1, the flag lot. The location of the sign must be shown on the building permit.
5. If required, the applicant must meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcel 1.
6. The applicant must provide a fire access way that meets the Fire Bureau requirements related to aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height as measured to the bottom of the eave of the structure, or to the top of the parapet for a flat roof.
7. Access to both Parcels 1 and 2 will be limited to the single curb cut/driveway associated with the pole portion of Parcel 1. No additional curb cuts/driveways shall be permitted along the remainder of the site frontage.
8. The applicant shall meet the requirements of the Portland Bureau of Transportation for construction of the required sidewalk corridor to the satisfaction of the City Engineer as a condition of the Building Permit for whichever house is developed first, via an over-the-counter PBOT Permit.

**Staff Planner: Kathy Harnden**

**Decision rendered by:**  **on March 12, 2014**

By authority of the Director of the Bureau of Development Services

**Decision mailed March 14, 2014**

**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 June 25, 2013, and was determined to be complete on **October 2, 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 June 25, 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 provided a non-specific time extension dated 11/04/13 (Ex. G.3), and later provided a signed 120-day waiver, as stated with Exhibit G.4.

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

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

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

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

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 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.portlandonline.com](http://www.portlandonline.com).

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

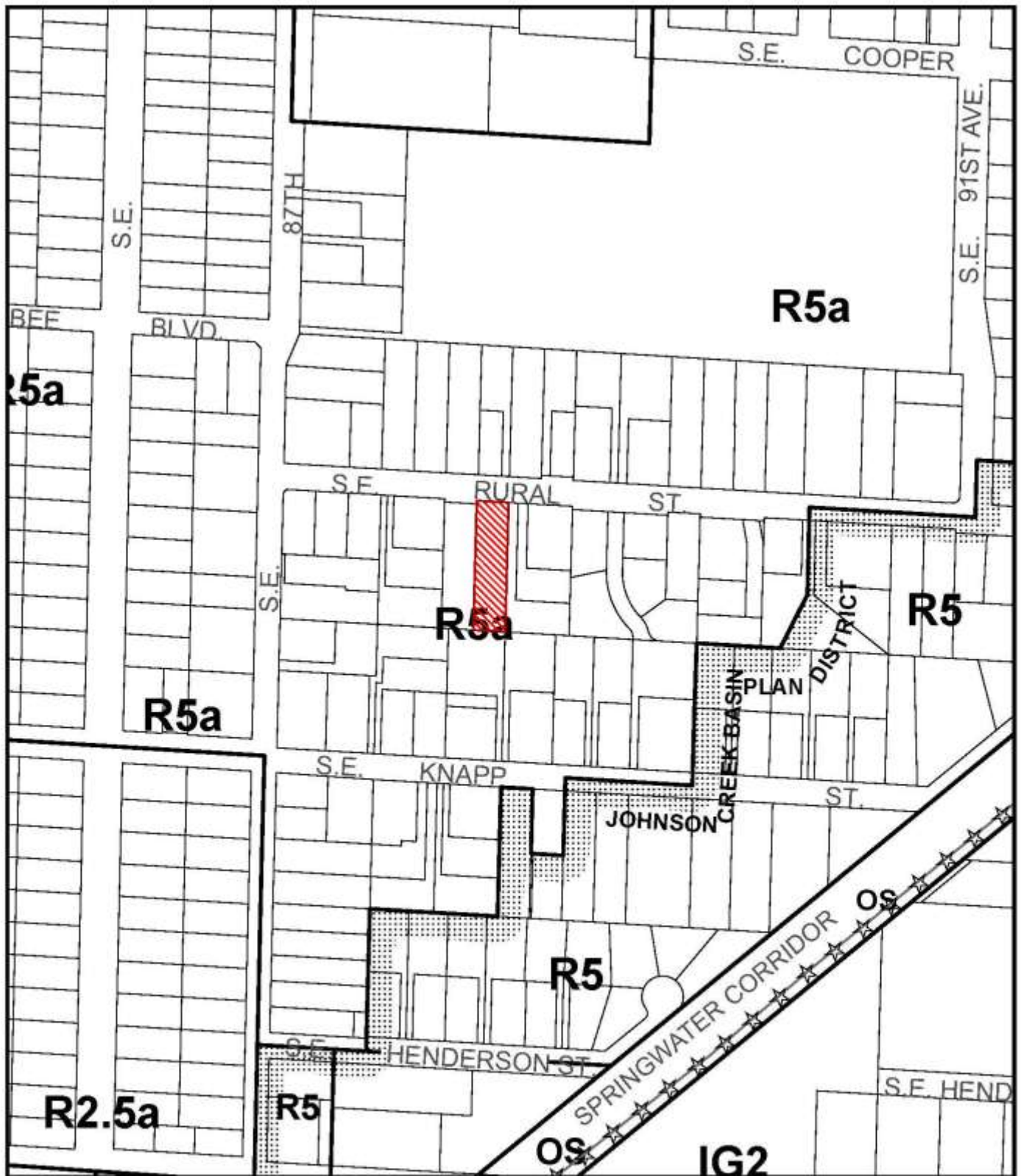
#### EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant’s Statement
  - 1. Initial Submittal
  - 2. Revised Narrative
  - 3. Arborist Report
  - 4. Arborist Preservation Plan (as modified by staff)
  - 5. Simplified Approach Stormwater Report
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions
  - 2. Proposed Improvements/Tree Protection Plan (reduced copy attached)
  - 3. Preliminary Plat
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1.a Bureau of Environmental Services
  - 1.b Bureau of Environmental Services, Revised
  - 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 Review Section of BDS
- F. Correspondence: (none received)
- G. Other:
1. Original LU Application
  2. Incomplete Letter, sent
  3. 120-day timeline extension
  4. 120-Day Waiver

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

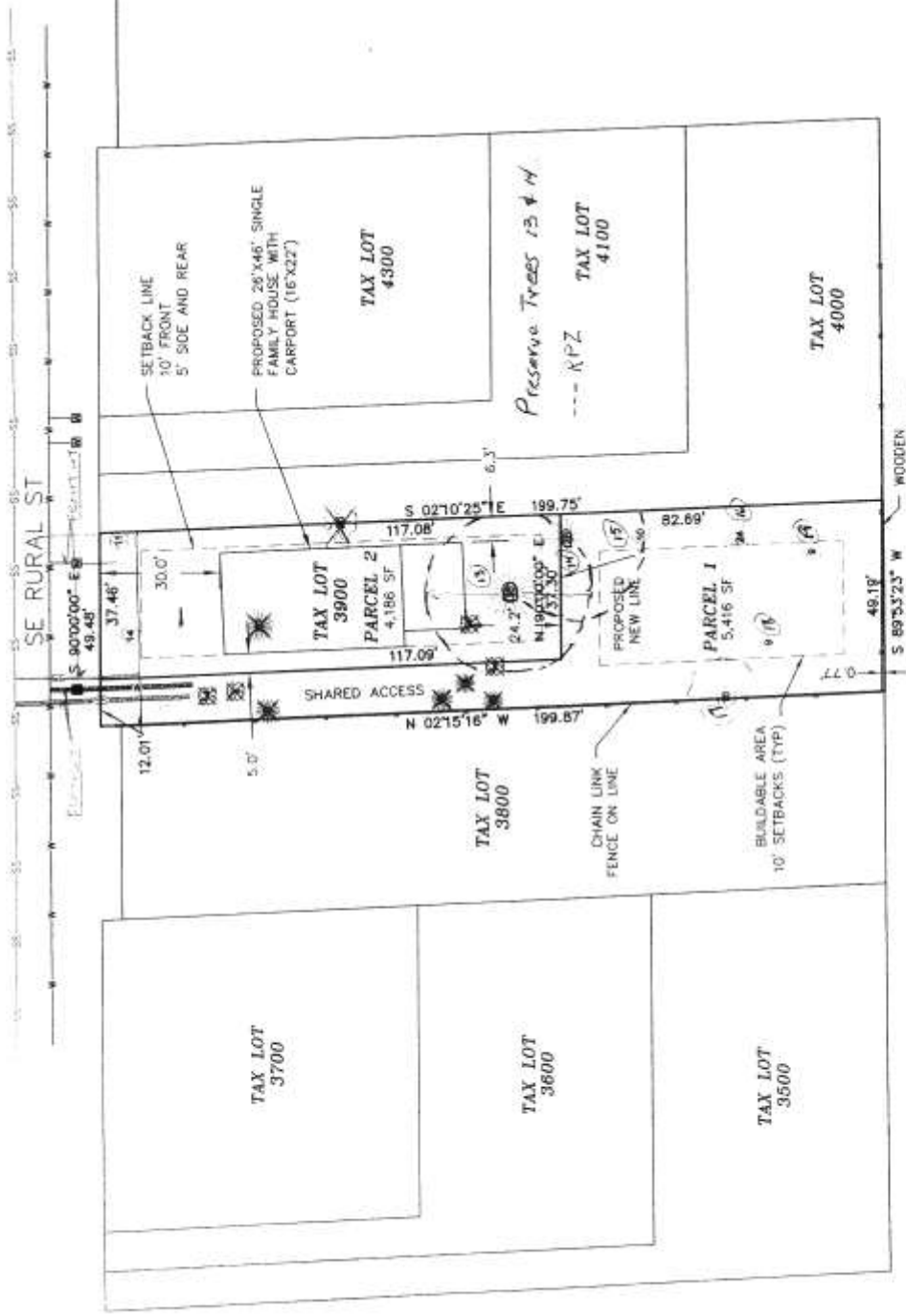


# ZONING

 Site



File No.	<u>LU 13-172017 LDP</u>
1/4 Section	<u>3739</u>
Scale	<u>1 inch = 200 feet</u>
State Id	<u>1S2E21BD 3900</u>
Exhibit	<u>B (Jun 27, 2013)</u>



SY



SCALE 1" = 30'

**LEGEND**

- M — EXISTING DECIDUOUS TREE W/ TRUNK DIAMETER (INCHES)(CL=CLUSTER)
- # — EXISTING CONIFEROUS TREE W/ TRUNK DIAMETER (INCHES)(CL=CLUSTER)
- X — TREE TO BE REMOVED
- — EXISTING WATER METER
- — EXISTING UNDERGROUND WATER
- — EXISTING SANITARY SEWER LINE
- — EXISTING FENCE
- — PROPOSED WATER METER
- — PROPOSED UNDERGROUND WATER
- — PROPOSED SANITARY SEWER LINE

*Tree Protection Plan*

8744 SE RURAL ST



SURVEYING CONSULTING

9138 SE ST HELENS ST  
PO BOX 3251  
CLACKAMAS, OR 97015  
PHONE (503) 451-4673 FAX (503) 450-4580

<b>PROPOSED IMPROVEMENTS, PRELIM. CLEARING &amp; GRADING, TREE REMOVAL</b>
NW 1/4 SEC 21, T1S, R2E, W.M.
CITY OF PORTLAND
MULTNOMAH COUNTY, OREGON
FEBRUARY 14, 2013
DRAWN: DMR CHECKED: SPF
SCALE 1"=30' ACCOUNT # 183

REGISTERED PROFESSIONAL LAND SURVEYOR

*Shaun P. Fidler*  
OREGON  
JULY 12, 2005  
SHAUN P. FIDLER  
503333

RENEWAL DATE: DECEMBER 31, 2013

**NOTES**

1. THE PURPOSE OF THIS MAP WAS TO SHOW THE PROPOSED IMPROVEMENTS AND CLEARING AND GRADING FOR 8744 SE RURAL STREET FOR A PROPOSED PARTITION PLAT.
2. THE BASIS OF BEARINGS WAS PER SURVEY NUMBER 58073, MULTNOMAH COUNTY RECORDS.
3. THIS MAP WAS PREPARED FOR THE EXCLUSIVE USE OF COMMUNITY VISION, INC. FOR PLANNING PURPOSES.
4. THIS MAP WAS PREPARED BY PLAT RECORDS, CALCULATED DATA, AND FIELD MEASUREMENTS. A RECORDED PARTITION PLAT WILL BE FILED AT A DATE TO BE DETERMINED.

2013-172017-01 Exhibit C.2