



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, 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:** April 8, 2016  
**To:** Interested Person  
**From:** Stephanie Beckman, Land Use Services  
503-823-6979 / [Stephanie.Beckman@portlandoregon.gov](mailto:Stephanie.Beckman@portlandoregon.gov)

## **NOTICE OF A TYPE II<sub>x</sub> DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has denied a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

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. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-253755 LDS**

#### **GENERAL INFORMATION**

**Applicant:** Mike Coyle /Faster Permits  
14334 NW Eagleridge Ln / Portland, OR 97229 503-680-5497

**Contract Purchaser:** Rick Reynolds / Rick Reynolds Construction Company  
30840 SW Rogue Crt / Wilsonville, OR 97070 360-909-6569

**Owner:** Thomas and Gwynna Pound  
5950 SE 141st Ave / Portland, OR 97236

**Site Address:** 5950 SE 141st Ave

**Legal Description:** LOT 3, PARTITION PLAT 2000-5  
**Tax Account No.:** R649800190  
**State ID No.:** 1S2E13C 01117  
**Quarter Section:** 3644  
**Neighborhood:** Pleasant Valley, contact Steve Montgomery at [foxtrotlove@hotmail.com](mailto:foxtrotlove@hotmail.com).,  
Powellhurst-Gilbert, contact at [pgnaboard@gmail.com](mailto:pgnaboard@gmail.com)

**Business District:** None  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** Johnson Creek Basin  
**Other Designations:** Special Flood Hazard Area on a portion of the site  
**Zoning:** R5 – Single Dwelling Residential 5,000  
**Case Type:** LDS – Land Division Subdivision  
**Procedure:** Type II<sub>x</sub>, an administrative decision with appeal to the Hearings Officer.

#### **Proposal:**

The applicant proposes to divide the 46,724 square foot site to create 8 lots for single dwelling development and two open space tracts. The proposed lots range in size from 3,000 to 8,179 square feet. The existing house will be retained on Lot 3. The garage will be removed and a replacement parking pad installed for the house.

Tract "A" is a 7,769 square foot open space tract that will contain the special flood hazard area (100-year floodplain) located on the southern portion of the site. Tract "B" is a 2,290 square foot open space tract for the use of Lot 3. Eight trees are proposed to be retained on the site, all but one of which are located in Tract A.

A dedication of 3 feet is shown on both the SE 141<sup>st</sup> and SE Knight street frontages to accommodate half street improvements, including 20 feet of paving, curb, planting strip/stormwater facilities, and sidewalk.

This subdivision proposal is reviewed through a Type IIx procedure because: (1) the site is in a residential zone; (2) four to ten dwelling units are proposed, not including accessory dwelling units; and (3) the site is located within a Flood Hazard Area (see 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 10 units of land (8 lots and 2 tracts). Therefore this land division is considered a subdivision.

**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.**

## ANALYSIS

**Site and Vicinity:** The site is located at the corner of SE 141<sup>st</sup> and SE Knight Street. It is developed with a single-dwelling home with an attached garage, generally located in the center of the property. There are also 3 sheds and a detached carport on the property. There are a number of trees on the site, primarily located around the perimeter of the property.

The vicinity is characterized by a mixture of large developable properties and recently subdivided and developed properties. The southern portion of this site and properties to the south and east are within the 100-year floodplain.

**Infrastructure:**

- **Streets** – The site has approximately 270 feet of frontage on SE 141<sup>st</sup> Avenue and 170 feet of frontage on SE Knight Street. There is one driveway entering the site from SE 141<sup>st</sup> that serves the existing house on the site.

At this location, the City's Transportation System Plan classifies SE Knight St. and SE 141<sup>st</sup> as Local Service streets for all modes. According to City GIS, SE Knight is a 50-ft wide right-of-way (ROW) with center strip paving without curbs or sidewalks. Adjacent to the subject site, SE 141<sup>st</sup> is a 40-ft ROW with center strip paving without curbs or sidewalks. There is existing curb and sidewalk in place along the west side of SE 141<sup>st</sup> to the south of the site.

The closest transit service is Tri-Met bus #10 that runs along SE 136<sup>th</sup> and SE Foster Road, approximately 1/3 mile from the site.

- **Water Service** – There are existing 8-inch water mains in both SE 141<sup>st</sup> Avenue and SE Knight Street. The main in SE 141<sup>st</sup> serves the existing house.

- **Sanitary Service** - There are existing 8-inch public sanitary sewer lines in both SE 141<sup>st</sup> Avenue and for SE Knight Street. The existing house is served by the main in SE 141<sup>st</sup>.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. Public vegetated surface infiltration facilities infiltrate stormwater runoff from the public right-of-way in the vicinity of the site.

**Zoning:** The site is within the R5 zone (Residential 5,000). It is also within the Johnson Creek Basin Plan District. The R5 designation is one of the City’s single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. At certain locations, the density of development is limited by applying special regulations to new land division proposals. In addition, restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. At other locations, development is encouraged and mechanisms are included that provide relief from environmental restrictions.

**Land Use History:** City records indicate that prior land use reviews include partitions listed below. There are no conditions that impact the development of the site.

- MCF LD 2-90 (Partition Plat 1990-15) – 2 lot partition
- LUR 96-00466 MP (Partition Plat 1996-154)
- LUR 98-00242 MP (Partition Plat 2000-5)

**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 June 30, 2015. 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.

<b>Criterion</b>	<b>Code Chapter/Section and Topic</b>	<b>Findings: Not applicable because:</b>
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.
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 maximum density is one unit per 5,000 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area, however area within the flood hazard area is subtracted when calculating minimum density. Based on the applicant's plan, the site area is 46,724, which results in a maximum density of 9 units. The 100 year floodplain covers approximately 7,500 square feet of the site. Based on a net site area of 39,224, the minimum required density for the site is 6 units. The applicant is proposing 8 single dwelling lots. The density standards are therefore met.

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

	<b>Min. Lot Area (square feet)</b>	<b>Max. Lot Area (square feet)</b>	<b>Min. Lot Width* (feet)</b>	<b>Min. Depth (feet)</b>	<b>Min. Front Lot Line (feet)</b>
<b>R5 Zone</b>	3,000	8,500	36	50	30
Lot 1	3,776		36	140	36
Lot 2	6,751		41	165	41
Lot 3	8,179		60	130	60
Lot 4	3,280		36	95	36
Lot 5	3,180		48	65	45
Lot 6	3,000		45	66	45
Lot 7	3,590		36	99	36
Lot 8	3,610		36	100	36

\* 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.

The findings above show that the applicable density and lot dimension standards are met. It should be noted that a minor revision to the Lot 4 dimensions are required to comply with the minimum width standard of 36 feet measured at the minimum front setback (10 feet) and 40 feet back. The applicant's plans show a small jog in the lot line at 49.18 feet. The side lot line must be straight for at least 50 feet to meet the minimum width requirement. There is flexibility to make this adjustment between Lots 3 and 4 on the final plat, as noted on Exhibit C.3. 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 has provided an arborist report that inventories the trees within the land division site, evaluates their condition and specifies root protection zones (Exhibit A.3).

The applicant is proposing to use Option 5 of the tree preservation standards, which requires at least 35 percent of the tree canopy area on the site. This option is available for sites larger than one acre. A 2015 aerial photo was provided showing tree canopy on the site to be preserved and removed (Exhibit A.5). Based on this information, there is a total canopy of 10,268 square feet and 3,605 square feet is proposed to be retained, which is 35 percent. This includes 8 trees, tree #3-7 and 9-11. All of the trees are located within Tract A, the flood hazard area tract, with the exception of tree #11, which is located on Lot 2.

The arborist also addressed the public sidewalk improvements proposed within the root protection zone of trees 3 and 4 (Exhibit A.4). The arborist indicates that the protection fence may be located 6 feet from these trees on the west side to allow for sidewalk improvements, however the excavation that occurs within 10 feet of the trees should be hand dug to allow for proper root pruning.

In order to ensure that future owners of the lots are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions at the time of final plat.

This criterion is met, subject to the condition that development on Lots 1, 2 and within and adjacent to Tract A be carried out in conformance with the Tree Preservation Plan (Exhibit C.5) and the applicant's arborist report and addendum (Exhibit A.3 and A.4) and an Acknowledgement of Tree Preservation Land Use Conditions is recorded with the final plat.

**C. Flood Hazard Area. If any portion of the site is within the flood hazard area, the approval criteria of Chapter 33.631, Sites in Flood Hazard Areas, must be met.**

**Findings:** Portions of this site are within the flood hazard area. The approval criteria in the RF through R2.5 zones state that where possible, all lots must be located outside of the flood hazard area. Where it is not possible to have all lots outside of the flood hazard area, all proposed building areas must be outside of the flood hazard area. In addition, services in the flood hazard area must be located and built to minimize or eliminate flood damage to the services, and the floodway must be entirely within a flood hazard tract.

The proposed land division will place the area of the site within the 100-year flood plain in a flood hazard tract (Tract A), as shown on Exhibit C.3. No services are proposed within the flood hazard area and there is no floodway on this site. However, BDS Site Development indicates that the plans area missing site topography to confirm that the flood hazard area is shown correctly on the site (Exhibit E.5). Topography was shown on a prior plan set (see Exhibit A.1),

however site grades and the location of the tract boundary must be confirmed during final plat review to address this issue. With this condition, the proposal will result in all lots and services located outside of the flood hazard area and 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:**

***Clearing and Grading***

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant grading will be required on the site to make the new lots developable. Removal of accessory structures and trees will be required to make way for street frontage improvements and development on the lots. Tree protection for trees required to be preserved will be required to be installed prior to any development activity on the site. This criterion is met.

***Land Suitability***

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

In addition, the applicant proposes to remove several structures to make way for the proposed development. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of garage and carport prior to final plat approval. The sheds on the site appear to be small enough that a permit is not required for their removal.

With these conditions, the new lots can be considered suitable for development, and this criterion is met.

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

**Findings:** The following tracts are proposed:

- Tract A: Open Space (Flood Hazard Area)
- Tract B: Open Space

The tracts must be labeled on the plat and ownership described consistent with 33.636.100.A.

As stated in Section 33.636.100.B of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the tracts described above. 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.

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

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

Lots 5-8 are oriented toward SE Knight, an east-west street. Lot 5, the corner lot is wider than the other lots, making the interior lots on the south side of the street (Lot 6-8) the narrowest lots in comparison. These lots meet 33.639.100.A.1.

Lots 1-4 are oriented to SE 141<sup>st</sup>, a north-south street. These lots vary in width between 36 feet and 60 feet. The lot layout is largely driven by the location of the floodplain to the south and the existing house located on Lot 3. Therefore, there is not flexibility to make the lots wider as described in 33.639.100.B. In addition, these lots are comparable in width to Lots 6-8, and wider in the case of Lot 3. This criterion is 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.

The applicant submitted a professionally prepared Traffic Impact Study (TIS), prepared by Lancaster Engineering, to address the transportation-related approval criteria (Exhibit A.6).

PBOT determined that the applicant has submitted a complete TIS that addresses the approval criteria. However, PBOT cannot recommend approval because the applicant has not initiated the City's Public Works Permitting process in order to obtain feedback on the engineering concept for the required public improvements see (Exhibit E.2).

Adequate information has not been provided to determine whether the transportation system is capable of safely supporting the proposed development. This criterion is not met.

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

**Findings:** Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way. The 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 Bureau has indicated that service is available to the site, as noted on page 2 of this report. As a result of the proposed land division, the water line that provides service to the existing home on Lot 3 will no longer be located entirely on the same lot as the home. Title 21 requires that the water service connection be located along the frontage of the lot to be served. Therefore, prior to final plat, the water service for the existing home must be relocated, so that the service connection will be located along the frontage of the Lot 3. With this condition, the water service standards of 33.651 have been verified.</p>
<p><b>33.652 Sanitary Sewer Disposal Service standards</b> – See Exhibit E.1 for detailed comments.</p>
<p>The Bureau of Environmental Services has indicated that service is available to the site, as noted on page 2 of this report. As a result of the proposed land division, the existing sewer connection that serves the house on Lot 3 no longer be completely within the lot it serves. The applicant must either obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Lot 3 prior to final plat approval. With this condition, the sanitary sewer service standards of 33.652 have been verified.</p>

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

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

The applicant has proposed the following stormwater management methods:

- **Lots:** BES staff reviewed the project's stormwater report from Emerio Design, dated February 12, 2015 (Exhibit A.7) that describes Simplified Approach infiltration test results of 120 inches per hour (20 inches per hour maximum per the SWMM) at a depth of 8 feet and 1.1 inches per hour at a depth of 3 feet on this site. A Geotechnical Report and Infiltration Test Results was also provided (Exhibit A.8). The applicant proposes to infiltrate runoff from the development onsite via drywells. Stormwater runoff from non-roof impervious area (e.g., driveways and patios) can be directed towards vegetated areas. Escape routes are proposed to go to landscaped areas. BES indicated this proposal is acceptable for the land use review, but noted potential issues with setbacks and locations of the proposed facilities that should be verified at the time of building permit.
- **Lot 3 (the lot with the existing house):** The applicant proposes to install a new drywell for the existing house that will be located on Lot 3. To ensure services for the house will be located completely on that lot, the drywell must be installed and receive final inspection approval prior to final plat approval.
- **Public Street Improvements:** PBOT is requiring frontage improvements along SE 141<sup>st</sup> and SE Knight. The applicant has not provided specific information about how the stormwater from the required public street improvement will be managed. In order to meet the requirement to obtain preliminary approval of the capacity, type, location, feasibility and land area required for the proposed stormwater management system, BES indicates that the applicant must obtain approval for their Concept Development plans (i.e. 30% design) for the required stormwater improvements through a Public Works Permit. BES has not currently received or approved the PWP Concept Development plans. This criterion is not 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. Pedestrian connections should be provided no more than 330 feet apart. The block on which the subject property is located does not meet the noted spacing requirements, however this site is on a corner of two public through streets (SE Knight is planned to be extended through to the east). Any new east west connection on this site would be located closer to the corner of SE Knight and 141<sup>st</sup> than desired. In addition, a connection at the southern end of the site would be within the floodplain, making it less able to serve new development and adding new impervious surface to the floodplain. For these reasons a new connection on this site is not required. This criterion is met.

**33.654.120.B & C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment**

At this location, the City's Transportation System Plan classifies SE Knight Street and SE 141<sup>st</sup> as Local Service streets for all modes. According to City GIS, SE Knight is a 50 foot wide right-of-way (ROW) with center strip paving without curbs or sidewalks. Adjacent to the subject site, SE 141<sup>st</sup> is a 40 foot wide ROW with center strip paving without curbs or sidewalks. There is existing curb and sidewalk in place along the west side of SE 141<sup>st</sup> to the south of the site.

For a Local Service classified street, along an R5-zoned site, the City's public right-of-way document requires a 56 foot wide ROW, which will accommodate a 26 foot wide roadway with parking on both sides and the standard 15 foot wide sidewalk corridors (0.5-ft curb/8-ft stormwater management facility/6-ft sidewalk/0.5-ft frontage zone).

Half-street improvements along both SE Knight and SE 141<sup>st</sup> will include 20 feet of paving (on-street parking one side), new curb 13 feet from ROW centerline, and the standard 15-ft sidewalk corridor (0.5-ft curb/8-ft public stormwater facility/6-ft sidewalk/0.5-ft frontage zone). A 3-ft dedication of property for ROW on both streets will be required to accommodate the standard improvements. Depending upon site conditions and stormwater management



needs the amount of dedication may vary and will be determined by through the Public Works Permit process described below. The property dedications will be required as a condition of final plat approval.

The above referenced frontage improvements must be reviewed/permitted through the City's Public Works Permitting process. The applicant is required to complete the initial 30% review phase of the public works permit prior to preliminary land division approval to ensure that any required design modifications that would affect the width of the right-of-way or the configurations of elements within the right-of-way are addressed prior to land use approval. The Public Works Permit Review will determine specific design elements including stormwater management, bus stop, curb-cuts, landscaping, location of signage, location of utility poles and street lights, as well as other design requirements.

The necessary Public Works Permit has not been submitted. PBOT has not determined the width of the right-of-way is sufficient to accommodate the required improvements or approved the elements within the street right-of-way. Therefore, 33.654.120.C.1 and 2 are not met.

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

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. At this time no specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.

## **DEVELOPMENT STANDARDS**

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.** Existing development on the site will remain and be located on Lot 3. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone. 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 existing development on the site:

- **Minimum Setbacks** – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The applicant proposes to remove the attached garage in order to comply with setbacks from the proposed new lot lines. Once this is complete, on the north side, there will be 5.95 feet from the wall of the house to the property line and 3.95 feet from the eave. On the south side the wall of the house will be 5.19 feet to the property line and there will be 3.19 feet to the eave. Eave are allowed to project 20 percent into the required side setback of 5 feet, or 1 foot. Therefore, there must be at least 4 feet from the property line to the eaves to meet the setback standard of 33.110.220. The applicant has indicated that they intend to trim down the eaves to 1 foot in order to meet the standard. This, or another acceptable solution (minor change to lot configuration, or Adjustment review), must be complete with finalized building permits prior to final plat approval. Demolition of the garage must also be complete, as documented through a finalized permit, prior to final plat approval. To ensure this standard met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building and eaves relative to the adjacent new lot lines after any work has been completed.

- **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 must be removed prior to final plat. A demolition permit is required for the carport. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. Due to the size of the shed, the applicant may submit before and after photos to document removal of those structures.
- **Required Off-Street Parking** – In this zone, one parking space per dwelling unit is required. A driveway and garage provides this required parking for the existing house on Lot 3. As a result of this land division, the required parking space for the existing house will be located on a different lot. In order to ensure that parking requirements continue to be met, a new parking space for the existing house must be constructed on Lot 3 prior to final plat approval. Permits must be obtained to construct a new parking space. Documentation of final inspection of this new parking space will be required prior to final plat approval.
- **Title 11 Tree Density Standard** – Residential development has a tree density requirement (11.50.050). Due to the land division, and associated tree removal, Lot 3 with existing house will no longer meet this standard. Lot 3 is 8,179 square feet, therefore 3,272 square feet of tree area is required. This can be achieved by planting between 4 and 11 trees on the lot, depending on the canopy size of the tree planted. Prior to final plat approval, the applicant must meet this requirement by obtaining a finalized zoning permit for planting trees to meet Title 11 tree density standards, or make the equivalent payment into the City's Tree Preservation and Planting Fund.

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.

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 <a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
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 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 11 –Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	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.

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; ensuring adequate hydrant spacing and flow from the nearest fire hydrant; ensuring adequate fire apparatus access, including 20 foot wide roadway, turnaround on a dead-end and aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the Parks Urban Forestry requirements to install street trees as part of the public street improvements. These must be shown on the public works permit plans and installed at the timing required by Urban Forestry. These requirements are based on the technical requirements of Title 11 Trees.

## CONCLUSIONS

The applicant has proposed an 8 lot subdivision with two open space tracts, as shown on the attached preliminary plan (Exhibit C.3). As discussed in this report, the relevant standards and approval criteria have not been met. The criteria that are not met are described below:

Land Division Criteria, 33.660.120

K. Transportation Impacts, 33.641.020

L. Services and Utilities, 33.653.020 and .030 (Stormwater management), 33.654.120.C.1 and 2 (Design of Rights-of-Way)

Because these standards and criteria are not met, the application cannot be approved.

## ADMINISTRATIVE DECISION

**Denial.**

**Staff Planner: Stephanie Beckman**

**Decision rendered by:** Kimberly Tallant on April 6, 2016

By authority of the Director of the Bureau of Development Services

**Decision mailed (within 5 days of dec. date) April 8, 2016**

**About this Decision.** This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on December 24, 2014, and was determined to be complete on June 22, 2015.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 24, 2014.

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 a full extension of the 120-day review period, as stated with Exhibit A.10. Unless further extended by the applicant, **the 120 days will expire on: June 21, 2016.**

**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 April 22, 2016** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 2:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 2:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> 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](http://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 97301-1283 or phone 1-503-373-1265 for further information.

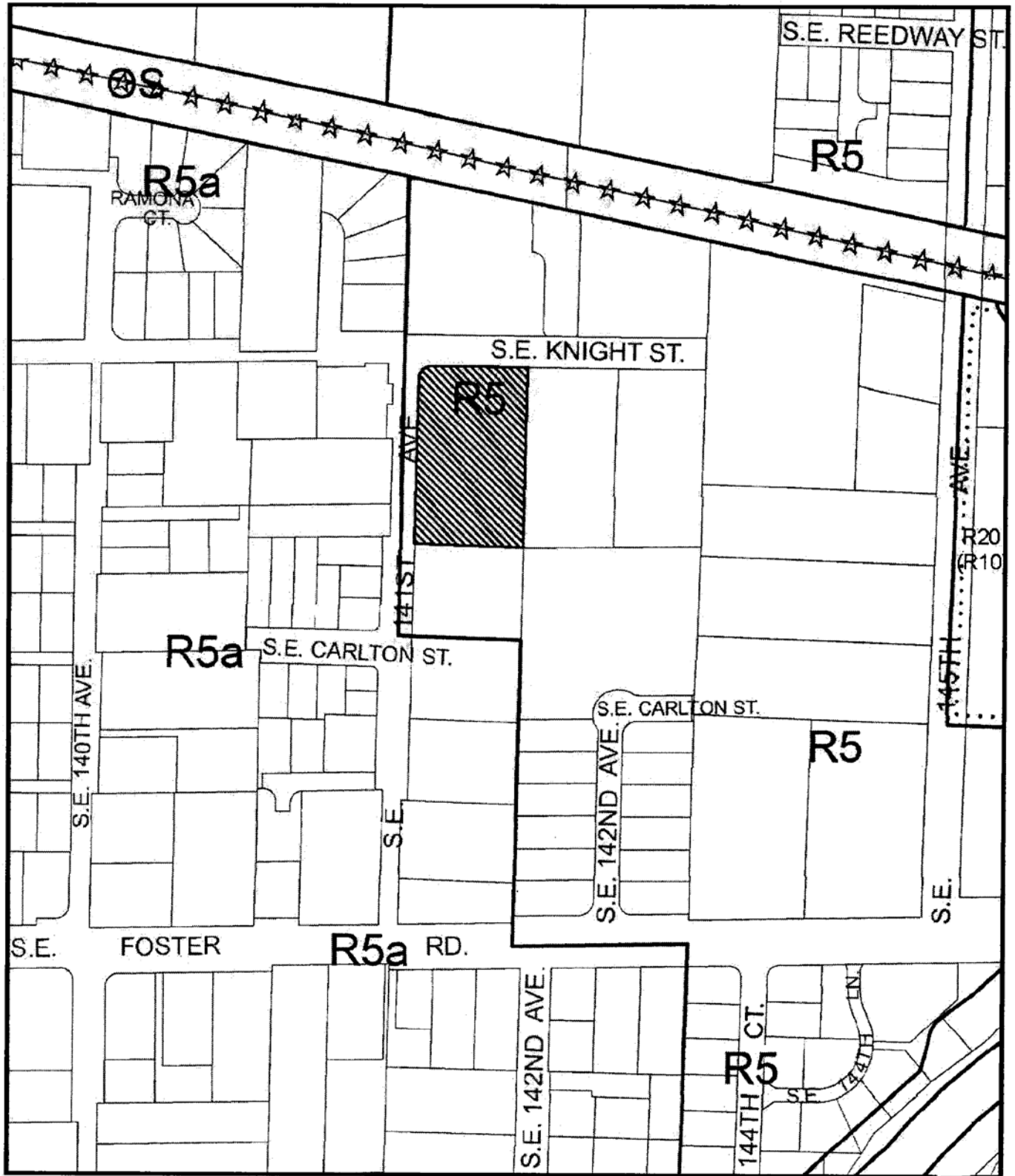
Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Original submittal
    - a. Narrative
    - b. Plans
    - c. Tree canopy exhibit
    - d. Transportation impact study
  - 2. Revised narrative
  - 3. Arborist report
  - 4. Arborist notes addendum
  - 5. Revised tree canopy exhibit
  - 6. Revised Transportation Impact Study
  - 7. Stormwater Report
  - 8. Geotechnical Engineering Report and Infiltration Test Results
  - 9. Neighborhood Contact Requirement Documentation
  - 10. 120-day review extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Cover Sheet
  - 2. Existing Conditions
  - 3. Preliminary Plat (attached)
  - 4. Site/Utility Plan
  - 5. Clearing and Grading/Tree Preservation Plan
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Section of BDS
- F. Correspondence from interested parties (none)
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter

**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



Recreational Trail



NORTH

This site lies within the:  
**JOHNSON CREEK BASIN PLAN DISTRICT**

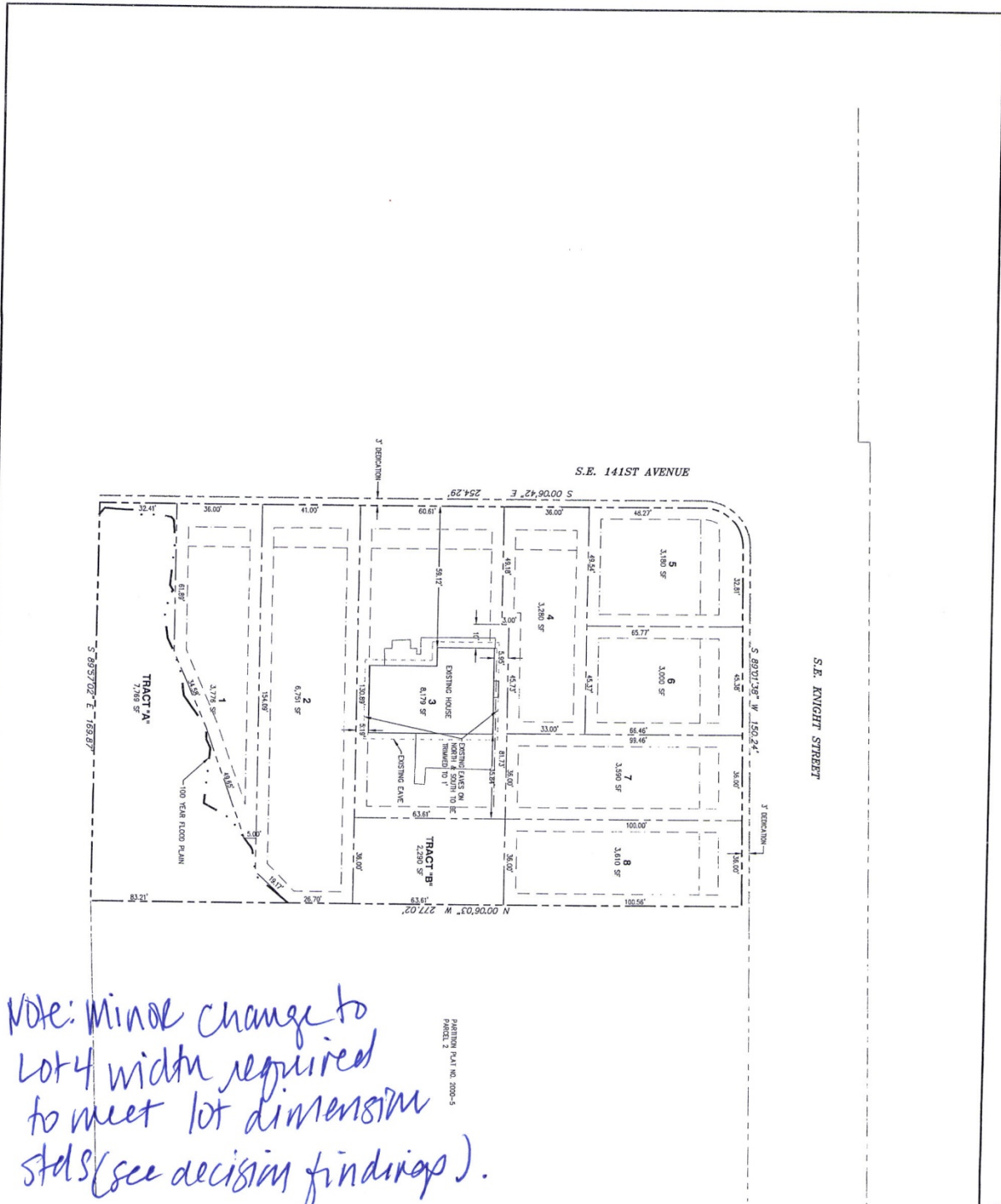
File No. LU 14-253755 LDS

1/4 Section 3644.3645

Scale 1 inch = 200 feet

State Id 1S2E13C 1117

Exhibit B (Dec. 29, 2014)



Note: Minor change to Lot 4 width required to meet lot dimension stds (see decision findings).

PARTITION PLAN NO. 2000-3  
PARCEL 2

ZONE  
R5  
SETBACKS  
FRONT: 10 FT.  
REAR: 5 FT.  
SIDE: 5 FT.

LEGEND  
PROPERTY LINE  
ADJACENT/ADJOINING LOT LINE  
CENTER LINE ROW  
SETBACK LINE



SCALE: 1" = 20'

CASE NO  
EXHIBIT

RECEIVED  
FEB 18 2000  
14-253755  
C.3

SHEET 3 OF 5	<b>EMERIO</b> Designer 6107 SW MURRAY BLVD, SUITE 147 BEAVERTON, OREGON 97008 PH: (503)-746-8812	REVISIONS		PRELIMINARY PLAT	5950 SE 141ST AVENUE TAX MAP T1S R2E 13C TAX LOT 1117 PORTLAND, OREGON
		NO.	DATE		