



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

Date: June 8, 2016
To: Interested Person
From: Lois Jennings, Land Use Services
503-823-2877 or lois.jennings@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 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 16-119620 LDP

GENERAL INFORMATION

Applicant/Owners: Bruce E. & Estelle A. Seaton / Port Twain Trust
4338 Via Largo
Cypress, Ca 90630-3452

Representative: Sarah Radelet /, Strata Land Use Planning
Po Box 90833
Portland, OR 97290

Site Address: 3248 SE 118TH AVE

Legal Description: LOT 2, NEELS TR 2
Tax Account No.: R598900050
State ID No.: 1S2E10AD 09900
Quarter Section: 3342

Neighborhood: Powellhurst-Gilbert, contact Powellhurst-Gilbert at pgnaboard@gmail.com
Business District: Midway, contact David Day at 503-760-7572.
District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Zoning: R2.5, High Density Single Family (2,500 square feet) with an "a"-
Alternative Design Density overlay
Plan District: Johnson Creek Basin Plan District

Case Type: LDP (Land Division Partition)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: The applicant is proposing a two (2) lot land division on the site. Proposed Parcel 1 will be 8,375 square feet in area and retain the existing home. Proposed Parcel 2 will be approximately 5,697 square feet in area which allows for development of a new single family residence or a duplex on the future lot. The applicant is proposing to preserve three of the eight trees on the site. The preliminary site plan reflects a 5.5 foot street dedication.

This partition is reviewed through a Type Ix land use review 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 two (2) lots. Therefore this land division is considered a partition.

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

FACTS

Site and Vicinity: The site is a relatively flat lot. There is an existing house with attached carport/shop. In 1994 a building permit (BLD 94-03133) was issued to construct a 30 ft. x 36 ft. garage/workshop pole building attached to the house by the existing attached carport. The building permit was cancelled in March 2001. The preliminary land division plan survey shows the garage/workshop pole building was constructed and not in compliance with the 1994 approved plans. The City does not acknowledge the construction of this garage/workshop pole building since the building permit was cancelled. The applicant notes in a letter to the City that the owner intends to correct the situation.

The lot fronts on SE 118th Avenue, which is improved with paved street and curbs. There are several large fir trees and bushes on the site. The surrounding properties are developed with one- and two-story single dwelling residencies.

Infrastructure:

- **Streets** – The site has approximately 99.99 feet of frontage on S.E. 118th Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, S.E. 118th Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (TSP). Tri-Met provides transit service approximately 450 feet south of the site on S.E. Powell Boulevard via Bus #9.

At this location SE 118th Avenue is partially improved with approximately 28-feet of paving with only a curb and no sidewalk within a 40-foot public right-of-way. For Local Service Classified streets abutting R2.5 zoned site, the City's Pedestrian Design Guidelines requires a 11-foot wide sidewalk corridor comprised of a 0.5 ft. curb, 4-ft wide furnishing zone, 6-ft. wide sidewalk and 0.5 ft. wide frontage zone.

- **Water Service** – There is an existing 6 inch CI water main in S.E. 118th Avenue. The existing house is served by a 5/8-inch metered service (Serial #28737779, Account #2950189700) from this main.
- **Sanitary Service** - There is an existing 8-inch VSP public combination sewer line in SE 118th Avenue.

- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property. Public underground injection control (UIC)P systems (“sumps”) infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. Stormwater from private development cannot be discharged to public UIC’s

Zoning: The subject site and surrounding area is zoned R2.5a (Single-Dwelling 2,500 with the Alternative Density Design overlay), which allows attached or detached development at a density of one dwelling per every 2,500 square feet of site area. The Alternative Design Density (a) overlay zone allows additional density in certain circumstances. The applicant’s proposal does not utilize any ‘a’ overlay provision.

Areas south of the site are zoned R2a (Multi-Family 2,000 with the Alternative Density Design overlay). There is a corner lot on SE 116th and SE Powell which is zoned CM (Mixed Commercial/Residential).

The Johnson Creek Basin plan district provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

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

Agency 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 **April 18, 2016**. No written response has 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 33.611 contains the density and lot dimension requirements applicable in the R2.5 zone. The maximum density is one unit per 2,500 square feet. Minimum density is one unit per 5,000 square feet based on 80 percent of the site area. The original lot area prior to street dedication is 14,623. After the street dedication the lot area is 14,072 s.f.. Maximum density: $14,072 \text{ s.f.} / 2,500 \text{ s.f.} = 5.62$ units, rounds down to 5 units.

Minimum density: $11,257.6 (14,072 \text{ s.f.} \times .80) / 5,000 \text{ s.f.} = 2.25$ units, rounds down to 2 units.

The applicant is proposing two lots. The existing house is to remain on Parcel 1. The lot area and dimensions of Parcel 2 can accommodate a single family residence or a duplex as allowed by 33.110.240.D. The minimum density of two units is being 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)
R2.5 Zone	1,600	NA	36	40	30
Parcel 1	8,375 s.f.		59 ft.	140 ft.	59.51 ft.
Parcel 2	5,697 s.f.		40 ft.	140 ft.	40.48 ft.

* 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. This criterion is met.

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

Tree Inventory:

Tree #	Common Name/Scientific Name -Species	Diameter (inches)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Purpleleaf plum (prunus cerasifera)	15	Exempt- Unhealthy	Remove	
2	Douglas -Fir (Pseudotsuga menziesii)	42	No	Retain	21 ft
3	Douglas -Fir (Pseudotsuga menziesii)	28	No	Retain	14 ft.
4	Douglas -Fir (Pseudotsuga menziesii)	19	No	Retain	9.5 ft.
5	Sweet Cherry (Prunus Avium)	12	Exempt -Nuisance	Remove	
6	Douglas -Fir (Pseudotsuga menziesii)	30	On Adjacent Neighbors property	On Adjacent Property Retain	
7	Douglas -Fir (Pseudotsuga menziesii)	34	No	Remove	
8	Deodar Cedar	9	No	Remove	

Findings: The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees. To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites. Some trees are exempt from the requirements of this chapter, if they are unhealthy, a nuisance species, within 10 feet of a building to remain on the site, within an existing right-of-way, or within an environmental zone.

In order to identify which trees are subject to these requirements, the applicant provided a tree survey (Exhibit C.4) that shows the location and size of trees on and adjacent to the site. The applicant also provided an arborist report (Exhibit A.7) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies a root protection zone and tree protection measures for each tree to be preserved.

The arborist report identifies seven trees at the site (Exhibit A.4), which provides a total of 159 inches of tree diameter. The arborist report identifies two trees (see table above) that are not suitable for tree preservation and is therefore meet the exemption from tree preservation. Therefore five trees totaling 132 inches of tree diameter are subject to the preservation requirements of this chapter. The applicant's arborist states preservation of tree number 7, a 34-inch Douglas Fir, would not be feasible to be saved based on the future development footprint proposed on Parcel 2.

The applicant proposes to preserve three of the five trees:

- #2 – 42-inch Douglas Fir
- #3 – 28 inch Douglas Fir
- #4 – 19 inch Douglas

The trees proposed for preservation are in good condition and are native trees and two of these native trees are more than 20 inches in diameter and a total of 89 inches of the 132 inches on site is being preserved. This tree preservation proposal complies with Option 3 of the tree preservation standards of Section 33.630, which requires preservation of 50 percent of trees that are 20 or more inches in diameter and at least 30 percent of the total diameter.

A minimum root protection zone is discussed by the Arborist and reflected on the Tree Preservation and Tree Table for Trees #2, #3, and #4. To limit the impacts of construction to trees #2 and 3 the arborist recommends an alternative root protection zone with utilizing alternative construction techniques and modified pavement profile for construction of the construction access and final permanent driveway, see specifics shown on tree preservation plan (Exhibit A.7 & C.4).

The preliminary improvement site plan show utilities being placed within the root protection zone of the trees required to be preserved. The arborist report notes the cumulative impacts of trenching the utility lines in the tree protection zone will cause significant impacts to tree health and/or stability and show be avoided. Therefore the arborist recommends boring the utility lines at a depth of at least four feet to avoid the root systems of the trees to be retained.

Sidewalk improvements will occur along the street frontage of this property which is adjacent to the preserved trees. The applicant's arborist report discusses that the impact from the right of way improvements in association to the trees being preserved. Tree Protection must be in compliance with the Arborist Report (Exhibit A.7) and Tree Preservation Plan (Exhibit C.4) when street frontage improvements are constructed.

The City Forester did a peer review of this arborist report agrees with the arborist report that trees 2, 3, and 4 can be preserved in a safe and healthy manner if construction of the temporary construction access and permanent driveway are constructed as proposed. To ensure the arborist guidelines are followed during the street frontage improvements, boring of utilities, installation of the construction access drive and permanent driveway for Parcel 2 the arborist will be required to be on-site during these activities. At the time of building permit application a Service Contract will be required to be submitted to the City showing an arborist has been retained by the developer and a letter from the Arborist stating he/she will be on-site during the listed activities and prior to final inspection of the building permit a new arborist report will be provided to Planning stating the health of the trees.

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In addition, the applicant's arborist report has also identified a 30-inch Douglas Fir (#6) on adjacent property to the south of Parcel 2, which is to be retained and protected from potential impacts created by disturbance due to development. The proposed tree preservation plan and location of the tree protection fencing accommodates tree protection of the adjacent neighbor's tree.

Based on these factors, no additional mitigation is warranted to satisfy the approval criteria.

In order to ensure that future owners of these parcels 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. The acknowledgement must identify that development on Parcels must be carried out in conformance with the Tree Preservation Plan (Exhibit C.4) and the Arborist Report (Exhibit A.7).

These criteria are met with conditions of approval.

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

Findings:

Clearing & Grading (33.635.100):

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

In this case, the site is primarily flat and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. To have the least impact on the trees to be retained the arborist report and tree preservation plan (Exhibit A.7 and C.4) provided alternative construction techniques and modified pavement profile for construction access driveway and the permanent driveway location for the future development on Parcel 2. The arborist recommends the new utilities (water, sewer and gas etc.) lines be bored to have the least impact on the root systems of the trees to be preserved.

This criterion is met.

Land Suitability (33.635.200):

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 (Exhibit E.5) and Bureau of Environmental Services (E.1) for the locating and decommissioning of this facility. With a condition requiring final inspection for a decommissioning permit, the new lots can be considered suitable for new development, and 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. The Development Review Section of the Portland Bureau of Transportation has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, and for potential impacts upon transportation services. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluating factors include: street capacity, 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 neighbors; and safety for all modes. PBOT has provided the following findings (See Exhibit E.2):

The proposal is to divide the site in two lots. The vehicle access and parking for the existing house is being retained on Parcel 1.

The minimal expected added vehicle trips (1 am peak hour trip/1 pm peak hour trip/10 total new daily trips) will not adversely impact the operations of area intersections. On-

street parking will not be impacted as there are an abundance of on-street parking spaces currently available. Further, it appears that the neighborhood in vicinity of the subject site is made up of homes with garages/driveways that accommodate multiple vehicles. The proposed partition will not have any negative effect to transit service or any other modes of travel. The required sidewalk corridor construction along SE 118th Avenue will enhance the area's pedestrian environment. The transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area.

In this case Portland Transportation has determined the existing right-of-way conditions do not satisfy current City Standards as discussed below under 33.654.120. To accommodate the construction of the 11-ft sidewalk corridor in this location a dedication of property for right-of-way purposes will be required. With the sidewalk corridor improvements along this frontage, one additional dwelling/two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

PBOT has reviewed and concurs with the information supplied by the applicant and available evidence. These criteria are 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>33.651 Water Service standard – 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. The water service standards of 33.651 have been verified.</p>
<p>33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.</p>
<p>There is an existing 8-inch PVC sanitary-only sewer line in SE 118th Avenue.</p> <p>Existing Development on Parcel 1: City Records do not show that the septic system on the site was decommissioned at the time the house was connected to the public sewer system. Prior to final plat approval, the applicant must decommission the system.</p> <p>According to 1994 City connection records, the existing house on Parcel 1 is currently connected to sewer in SE 118th Avenue through a lateral located 475 feet from the manhole to the south. This places the existing lateral approximately 18 feet south of the new proposed property line. Sewer lines are not allowed to cross the proposed new lot line. Therefore prior to final plat approval the applicant must:</p> <ol style="list-style-type: none"> Demonstrate the service lateral for the existing house is located on the lot that it serves by locating the lateral relative to the new proposed property line; or The applicant must obtain a plumbing permit to cap the existing sewer connection and establish a new service for the house located entirely on Parcel 1. All plumbing permits and connection permits to establish this new service are required to receive a final inspection prior to Final Plat approval. <p>Proposed Development: Parcel 2 may be able to utilize the existing sanitary lateral if it is completely in this parcel's frontage or a new sewer lateral connection will be required at the time of development of Parcel 2.</p> <p>With conditions noted above, this standard is met.</p>
<p>33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p>

The applicant has proposed the following stormwater management methods:

- **Public Street Improvements:** At this location, SE 118th Avenue is improved with approximately 28-feet of paving with only a curb and no sidewalk. As a condition of this land use approval, the Bureau of Transportation requires the applicant to improve the frontage of the site to City standards (discussed below in this report). A new sidewalk is required, but the curb already exists. BES has indicated that the sidewalk must be constructed so that it will slope towards the planter strip, allowing the stormwater runoff from the sidewalk to be deposited in a vegetated area, which meets the requirements of Stormwater Management Manual.
- **Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. BES has indicated conceptual approval of the drywell.
- **Parcel 1, the lot with the existing house:** The existing house infiltrates stormwater onsite. Stormwater is infiltrated through downspout extensions. The downspouts meet the setbacks requirements to the new proposed property line.

BES finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the preliminary land division application against stormwater management approval criterion. This criterion and standard is met for this land division proposal.

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 at least 330 feet apart. The site is located north-south connection and approximately 420 ft north of the nearest east-west connection (SE Powell Blvd) and approximately over 2,000 ft south of the near east-west connection (SE Division Street) The site contains sufficient width to allow the creation of a public east-west through street. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for an east-west through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

The site is within the Portland Master Street Plan for the FAR SE District. No connections are identified at this location. Therefore, the proposal is consistent with the master street plan.

For the reasons described above, this criterion is met.

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

The City's Transportation System Plan classifies SE 118th Avenue as a Local Service street for all modes. The City's Pedestrian Design Guide requires an 11-ft wide sidewalk corridor comprised of a .5 ft curb, 4-ft wide furnishing zone, 6-ft. wide sidewalk, and 0.5-ft wide frontage zone. At this location, SE 118th Avenue is improved with approximately 28-ft of paving, with only a curb and no sidewalk within a 40-ft right-of-way. There is approximately 5.5 ft. of right-of-way behind the existing curb. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development.

In this case Portland Transportation has determined the existing right-of-way conditions do

not satisfy current City Standards. The applicant will be required to construct 11-ft wide sidewalk corridor along this street frontage. To accommodate the 11-ft wide standard sidewalk corridor it appears that a 5-ft. dedication of property for right-of-way purposes (to be confirmed by the applicant's surveyor). The applicant's revised survey plans show a 5.5 ft. property dedication. The required street dedication of property will occur as part of the final plat process. This sidewalk improvement must be made in order to ensure the safe pedestrian travel is possible within the proposed development.

Prior to Final Plat Approval, the above referenced 11-ft wide standard sidewalk corridor must be constructed along the frontage of Parcel 1. The sidewalk improvements along Parcel 2 will occur at the time of development. Prior to building permit issuance for the new home to be developed on Parcel 2, the building plans must show the construction of the 11-ft wide standard sidewalk corridor along the frontage of Parcel 2.

With those improvements, one additional dwelling/two additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the conditions of approval described above.

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. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 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 existing house will be 5 feet from the new side property line and a minimum of 10 feet from the new front lot line after the street dedication. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- **Maximum Building Coverage** – The existing house identified to remain on the site must be in compliance with building coverage for the new proposed lot area, Parcel 1. Due to the required street dedication affecting the original proposed lot area of Parcel 1, the lot area and width for Parcel 1 and Parcel 2 may vary at the

time of final plat approval, to accommodate retaining the existing house and being in compliance with maximum building coverage. Therefore to ensure that the lot area is adequate to retain the existing house on Parcel 1 to be in compliance with all development standards of the zoning code, the supplemental survey at the time of Final Plat will provide actual dimensions for the existing buildings (existing house with attached garage/shop) and provide a table with building coverage calculation per Title 33's definition. Lot area and lot width for Parcel 1 and Parcel 2 may vary at the time of final plat submittal to accommodate retaining the house on Parcel 1 to be able to meet the allowed building coverage and setbacks (provided they don't go below 36 feet in width and minimum lot area).

- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 must be removed prior to final plat. The accessory structure is less than 200 s.f., so the applicant must submit before and after photos to document removal of the structure. To ensure that this standard is met, a condition of approval is necessary.
- Title 11- Tree Density Standard – Residential development has a tree requirement that is currently met on the site. Due to the land division, and associated tree removal, Parcel 1 with existing house will no longer meet this standard. Parcel 1 is 8,375 square feet in area, and 3,350 square feet of tree canopy area is required. Prior to final plat approval, the applicant must meet this requirement by either planting trees on Parcel 1 to meet this tree canopy area or an alternative to meeting the tree planting requirements, you may elect to make a payment to the Tree Planting and Preservation Fund. The rate is \$450 per 500 square feet of tree canopy. Let me know if you elect to use this option and the fee will be required to be paid prior to final plat approval.

A Zoning Permit will be required to plant the required tree canopy area to meet the Tree Density standards of Title 11.50.050 for Parcel 1.

Large trees count as 1,000 square feet of area, medium trees as 500 square feet, and small trees as 300 square feet. Please refer to the Plant Materials chapter of the Tree and Landscaping Manual for tree sizes:

<http://www.portlandoregon.gov/bds/index.cfm?a=71964> Note per Table 50-2 in Title 11 that minimum planting areas are also required based on the size of the tree.

At the time of development, the individual parcel must also meet the Title 11-Tree Code provisions, which require a specific amount of site area for tree planting based on the size of the property and the scale of the development. The trees to be retained as part of this review may be applied toward meeting those Title 11 requirements. Prior to recording the final plat, Parcel 1 with the existing house must meet Title 11 requirements for Tree Density as discussed above.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

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

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

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

- The applicant must meet the requirements of the Fire Bureau in regards to ensuring adequate hydrant flow from the nearest fire hydrant or obtain an approved Fire Bureau appeal to this requirement. If a Fire Bureau Appeal is approved which allows internal fire suppression sprinklers then recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2; addressing, fire apparatus access, including aerial access. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.
- The applicant must meet the requirements of Urban Forestry for street tree planting in planting strip within this 11-foot wide sidewalk corridor adjacent to this property. The street planting for Parcel 1 must occur prior to final plat approval and at the time of development for Parcel 2. This requirement is based on the standards of Title 11.
- The Life Safety Plans Examiner of the Building Code Section of BDS reviewed this land division proposal and notes the following comments: Permit# 94-003133 CO for the construction of the garage/workshop pole building was cancelled in March 2001. However, the preliminary plan map provided as part of the LU 16-119620, as well as photographic evidence, show that his pole building has been constructed. A new building permit must be established and finalized for this pole building prior to the proposed land division. Please contact Time Morris, Residential Combo Inspections Manager, at (503) 823-7456 to discuss the requirements for completing the permitting process on the pole barn. The applicant must legalize the construction of attached garage/shop prior to final plat approval.

The garage/workshop pole building attached to the existing house/carport as shown as shown on preliminary land division survey is unpermitted work, since 1994 permit was cancelled. Section 105.1 of the Oregon Residential Specialty Code requires a permit to be obtained when an owner or contractor constructs, enlarges, alters, moves, changes the occupancy of a building or structure. The Administration and Enforcement Chapter of Title 33 states the following when a permit is required per Section 33.700.005 “New development, changes to existing development, and changes in the type of number of uses may require a permit.” This addition of a garage/workshop pole building to the existing house/carport would require a building permit and a land use review to request an adjustment to the side setback standard. Under the Violations and Enforcement Chapter of Title 33, Section 33.700.030. states the following: “It is unlawful to violate any provision of this Title, a land use decision, or conditions of a land use approval. This applies to any person undertaking a development or land division, to the proprietor of a use or development, or to the owner of the land underlying the development or land division. “The unpermitted work is in violation of Title 33 and Title 24 which adopts the

State of Oregon Residential Specialty and requires a permit and any associated land use reviews to legalize it prior to final plat approval.”

CONCLUSIONS

The applicant has proposed a two parcel partition, as shown on the attached preliminary plan (exhibit C.1) As discussed in this report; the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues with this proposal are Tree Preservation, and street dedication and sidewalk frontage improvements. Lot areas and width of both parcels may vary at the time of final plat to ensure compliance with all Title 33 development standards, specifically maximum building coverage to allow the house to be retained on Parcel 1. Prior to final plat approval the unpermitted addition of a garage/workshop pole on to the existing house must be legalized to be in compliance with Title 33 and Title 24.

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

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a two lot minor partition, which will result in two single dwelling parcels. However, the vacant lot Parcel 2, does have sufficient lot area to be developed with a duplex as allowed by 33.110.240.H of PZC. The two lots are standard lots as illustrated with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey for Land Use Review, BES, Site Development 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:

- The specific dimensions of existing buildings and accessory structures on the site at the time of the final plat application;
- A table which identifies the building coverage for each building and/or structures on the site in relationship to future Parcel 1.
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- Show the exact location of the existing sanitary service lateral for the existing house in relationship to the new proposed property line.
- Show the location of the existing building and eaves relative to the adjacent new lot lines.
- 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 right-of-way improvements along the site’s street frontage. The required right-of-way dedication must be shown on the final plat.
2. Parcel 1 and Parcel 2 lot areas and dimensions may vary from the final plat approval standards 33.663.200.A to accommodate appropriate street dedication and allow for Parcel 1 to vary to accommodate maximum building coverage being met for the existing house being retained on Parcel 1. However, Parcel 2’s lot width may not go below 36 feet in width.
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.9 and C.10 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A (*title of document*) has been recorded as document no. _____, Multnomah County Deed Records.”

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

1. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage. The applicant must obtain an approved Right Of Way permit from the Portland Bureau of Transportation to install the required sidewalk corridor. The improvements along the frontage of Parcel 1, where the existing house will be retained, must be constructed prior to final plat approval.

Utilities

2. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for the decommissioning the on-site sewage disposal system for the existing house.
3. The applicant shall meet the requirements of the Bureau of Environmental Services (BES) in regards to the existing sanitary line:
 - Demonstrate the sanitary service lateral for the existing house is located on the lot (Parcel 1) that it serves by locating the lateral relative to the proposed property line. To accurately determine the location of the existing sanitary lateral, it must be field located and then shown on the surveyor's supplemental survey. or
 - Cap the existing sanitary lateral and establish a new service lateral for the existing house to the sewer in SE 118th Avenue. For capping and establishing new service, the work must be completed and the applicant must obtain finalized plumbing and connection permits prior to final plat approval.
4. The applicant shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. The applicant must provide verification to the Fire Bureau that Appendix B of the Fire Code is met; the exception is used, or provides an approved Fire Code Appeal prior final plat approval.

Existing Development

5. The applicant must remove the accessory structure on Parcel 2. The applicant must submit before and after photos of the removal (with the same perspective). Prior to removal of these structures, tree protection must be installed in accordance with the approved Tree Preservation Plan, per Condition D.1. Alternately, the applicant can execute a covenant with the City stating that the structures will be removed if a primary structure has not received final inspection on the lot(s) with the accessory structure(s) within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
6. The applicant must legalize the construction of the attached garage/shop (started under#94-003133, cancelled in 2001) prior to final plat approval.
7. The applicant must plant street tree(s) in the planter strip on SE 118th Ave Street adjacent to Parcel 1 Street trees will be chosen from the City's approved street tree list for the 4- foot planting strip. Tree size requirements for residential sites are to be 1.5- inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

8. The applicant must meet the tree density requirement on Parcel 1 with the existing house by either planting trees on the lot or making the equivalent payment into the Tree Planting and Preservation Fund. A finalized Zoning Permit must be obtained to document tree planting prior to final plat approval.

Required Legal Documents


9. If required per Condition C.4 above, the applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Parcel 2 to contain internal fire suppression sprinklers per Fire Bureau Appeal. The acknowledgement shall be referenced on and recorded with the final plat.
10. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply 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 referenced on and recorded with the final plat.

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

1. Development on Parcels 1 and 2 shall be in conformance with the Tree Preservation Plan (Exhibit C.4) and the applicant's arborist report (Exhibit A.7), including driveway location, materials and utility boring. Specifically, trees numbered 2, 3, and 4 are required to be preserved, with the tree protection fencing indicated on Exhibit C.4. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones (tree fencing) 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. Prior to Planning and Zoning approval of a building permit for new development on Parcel 2, the applicant must provide a service contract, which clearly indicates a certified arborist is hired to be on-site and will monitor the following construction activities within the root protection zone of trees required to be preserved: street frontage improvements, construction of the temporary construction access driveway/permanent driveway and boring of utilities.
3. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof. The location of the address signage must be shown on the building permit.
4. If required, the applicant will be required to meet any requirements identified through a Fire Code Appeal/install residential sprinklers in the new dwelling unit on Parcel 2. Please refer to the final plat approval report for details on whether or not this requirement applies.
5. The applicant shall meet the requirements of the City Engineer for right of way improvements along the site's street frontage of Parcel 2. The improvements along the frontage of the undeveloped lot, Parcel 2, may be constructed at the time of development as per the City Engineer's discretion.

- The street tree planting for Parcel 2 may occur at the time of development of Parcel 2 and will be included as part of the building permit.

Staff Planner: Lois Jennings

Decision rendered by:  **on June 3, 2016**

By authority of the Director of the Bureau of Development Services

Decision mailed June 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 February 10, 2016, and was determined to be complete on April 12, 2016.

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 February 10, 2016.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: August 10, 2016.**

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. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

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.

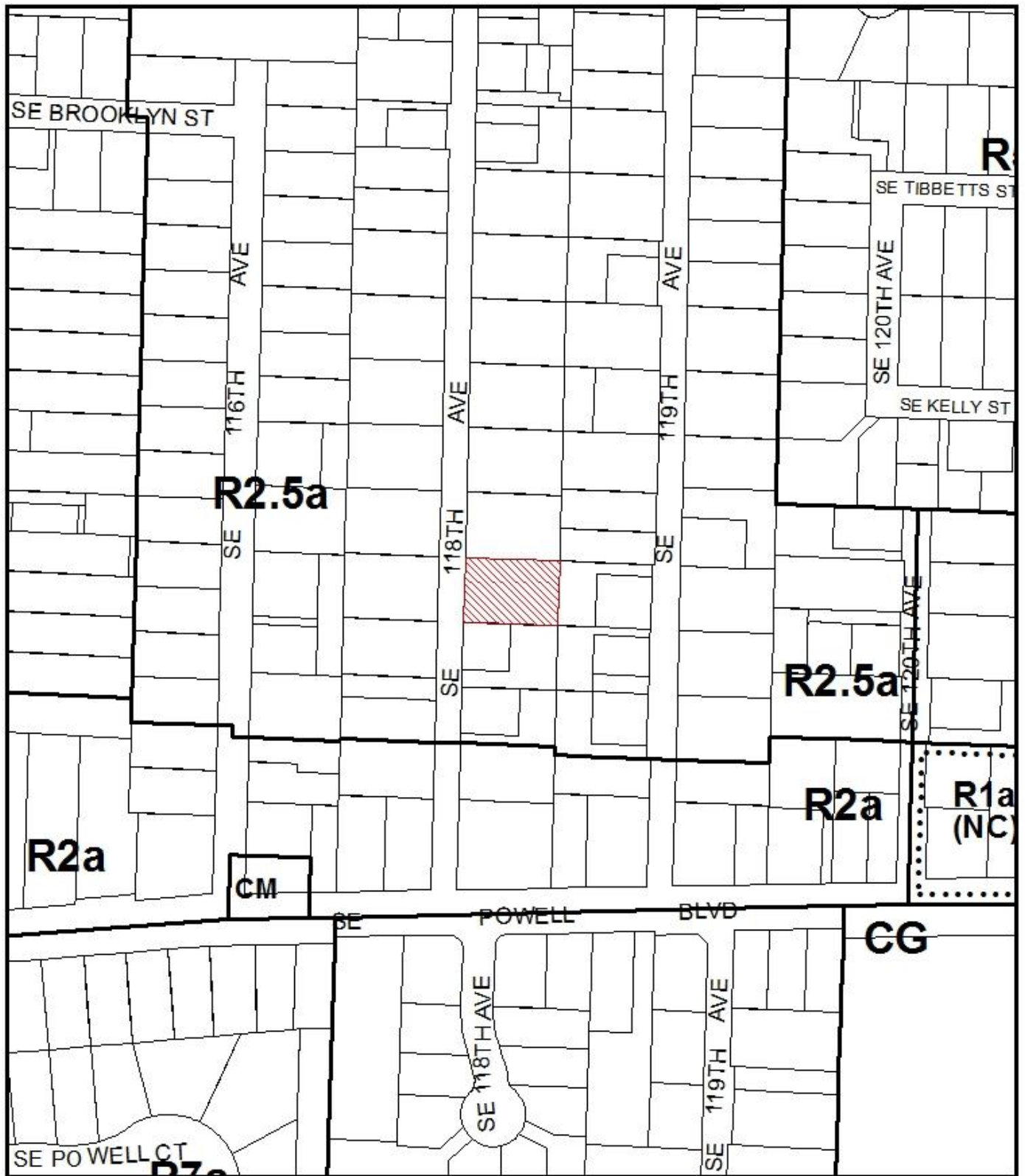
Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director 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. February 10, 2016 Narrative & plans for three lot land division
 - 2. Title Report
 - 3. February 6, 2016 Teragan & Associates Arborist Report
 - 4. Simplified Approach Form for Stormwater
 - 5. April 12, 2016 letter from Sarah Radelet
 - 6. April 12, 2016 revised plans for two lot land division (existing conditions, preliminary plan & tree preservation plan)
 - 7. March 21, 2016 Teragan & Associates updated Arborist Report submitted on April 12, 2016
 - 8. Port Twain Trust submitted on April 12, 2016
 - 9. April 14, 2016 Revised Narrative for 2 lot land division submitted on April 19, 2016
 - 10. Revised Preliminary Plan showing future improvement & utilities submitted on April 19, 2016
 - 11. Miscellaneous E-mail correspondence with applicant
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Preliminary Plan (attached)
 - 2. Existing Conditions Plan
 - 3. Proposed Development & Utility Preliminary Plan
 - 4. 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: None
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Miscellaneous E-mail Correspondence with applicant

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



ZONING

 Site

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT



File No. LU 16-119620 LDP
 1/4 Section 3342
 Scale 1 inch = 200 feet
 State_Id 1S2E10AD 9900
 Exhibit B (Feb 17, 2016)

