



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

FROM CONCEPT TO CONSTRUCTION

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**Date:** August 24, 2016  
**To:** Interested Person  
**From:** Diane Hale, Land Use Services  
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## **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 15-270051 LDP**

#### **GENERAL INFORMATION**

**Applicant:** Richard Georgescu P.E., RSG Engineering Co. / (503) 380-6179  
16802 NE 152nd Ave. / Brush Prairie, WA 98606

**Owners:** Lyubov and Ilya Semenyuta / (503) 317-7444  
74 SW 175th Ave. / Beaverton, OR 97006

**Site Address:** 532 NE 155TH AVE

**Legal Description:** LOT 1&2 TL 3002, PARTITION PLAT 1998-19  
**Tax Account No.:** R239995  
**State ID No.:** 1N2E36AC 3002  
**Quarter Section:** 2946

**Neighborhood:** Wilkes Community Group, contact Alice Blatt at 503-253-6247.  
**Business District:** Gateway Area Business Association, contact Paul Wild at [paul.wild@mhcc.edu](mailto:paul.wild@mhcc.edu)

**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** None  
**Other Designations:** None  
**Zoning:** R7h (Single Family Residential, 7,000 with an "h" Aircraft Landing Zone overlay zone)

**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 2-parcel land division for this 20,976 square foot site, resulting in 2 new parcels for detached single-family homes. A private street is proposed along the

southern portion of the site to provide vehicle access for both parcels. Parcel 1 will be ~5,440 square feet and Parcel 2 will be ~11,980 square feet. The site is currently developed with a house built in 2000. The applicant proposes to retain the house. Off-street parking is proposed for both parcels. The applicant states that all trees on the site are too small to be regulated.

This partition is reviewed through a Type 1x 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 3 units of land (2 parcels and 1 Private Street Tract). 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 zoned for single-family development and is surrounded by single family zoning and development. Glenfair Park is less than a ¼ miles to the south. Glendoveer Golf Course is ~1/4 mile to the west. A private street abuts the site to the north.

#### **Infrastructure:**

- **Streets** – The site has approximately 20 feet of frontage on NE 155th Avenue. There is one driveway entering the site that serves the existing house on the site. At this location, the City's Transportation System Plan classifies NE 155th Ave as a Local Service street for all modes. According to City GIS, NE 155th Ave is improved with approx 22-ft of paving (no curb/sidewalk) within a 50-ft wide right of way (r.o.w). Tri-Met provides transit service approximately 215 feet from the site at NE Glisan Street via Bus 25.
- **Water Service** – The site is located in the Rockwood Water District. There is an existing 6-inch CI water main in NE 155th Avenue. The existing house is served by a 3/4-inch metered service from this main.
- **Sanitary Service** - There is an existing 8-inch PVC public sanitary sewer line in NE 155th Avenue.
- **Stormwater Disposal** – There is no public storm-only sewer currently available to this property.

**Zoning:** The R7 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 4,200 square feet, with a minimum width and depth dimensions of 40 feet and 55 feet, respectively. Newly created lots must have a maximum density of 1 lot per 7,000 square feet of site area. The "h" overlay limits the height of structures and vegetation in the vicinity of the Portland International Airport. In this zone, structures are regulated by the base zone height limits rather than the height limits of Chapter 33.400. The site is located within the Glendoveer Plan District area but is not subject to the plan district regulations, as indicated with an \* on the zoning map.

#### **Land Use History:**

**99-017295 LDP:** Approval of 2 lots with access via the private street to the north. The plat was not completed.

**99-130993 PR:** Property Line Adjustment. This PLA was completed. The current configuration of the site was created with this PLA.

**08-123268 LDP:** 2-parcel land division. The application was withdrawn before a decision was issued.

**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 **January 20, 2016**. No written responses have been received from 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:
B	33.630 – Tree Preservation	No trees in excess of 6 inches in diameter are located fully or partially on the site.
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.
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
	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.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 with a new street is one unit per 7,000 square feet based on 85 percent of the site area. Minimum density is one unit per 7,000 square feet based on 68 percent of the site area. The site has a minimum required density of 2 units and a maximum density of 2 units. If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1. The applicant is proposing 2 single dwelling parcels. 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>R7 Zone</b>	4,200	12,000	40	55	30
Parcel 1	5,437		71	78	71.19
Parcel 2	11,978		89	93	73.97

\* 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.

**Through Lots**

Parcels 1 and 2 are through lots. Through lots are allowed only where both front lot lines are on local service streets. The private street to the north and the proposed private street that will abut the parcels to the south are both local service streets, therefore Parcels 1 and 2 are allowed. The minimum front lot line and minimum width standards apply to one frontage of the through lot. In this case, Parcel 2 is meeting the standard on the northern front lot line adjacent to the existing private street. Parcel 1 is meeting the standard on the proposed private street to the south.

The findings above show that the applicable density and lot dimension standards are met. Therefore, 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 relatively flat, and is not located within the Potential Landslide Hazard Area. However a new street is proposed as part of the land division, which will require grading on the site. The applicant has submitted a Preliminary Clearing and Grading Plan (Exhibit C.2) that depicts the proposed work, existing elevation contours and the area of disturbance. The clearing and grading that will be necessary at development represents a minimal amount of change to the existing contours and drainage patterns of the site to

provide for a level street surface. The contour changes proposed should not increase runoff or erosion because all of the erosion control measures shown on the grading plan must be installed prior to starting the grading work. Stormwater runoff from the new street and lots will be appropriately managed through on-site infiltration to assure that the runoff will not adversely impact adjacent properties (see detailed discussion of stormwater management later in this report).

The clearing and grading plan does not indicate topsoil storage, or a stockpile area, but there is ample room on the site to locate soil stockpiles. A condition of approval will require the clearing and grading plan submitted with the Site Development permit to indicate the location of stockpile areas, and the limits of disturbance must be extended to include these areas.

As shown above, the Preliminary Clearing and Grading Plan meets the approval criteria. As discussed later in this report, the Site Development Section of the Bureau of Development Services requires that the applicant apply for a Site Development Permit for the construction of the proposed private street. The permit application must include a final clearing and grading plan that shows the location of stockpile areas and the limits of disturbance. The limits of disturbance may be expanded beyond what is shown on Ex. C.2 to allow for maneuvering of vehicles, staging and other actions related to the construction of the private street. With the conditions noted above, 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. As indicated above, the site is relatively flat and contains no known geological hazards. Therefore, there are no anticipated land suitability issues and the new lots can be considered suitable for new development. 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: Private Street Tract and Public Utility Easement

With a condition that the proposed tract be owned in common by the owners of Parcels 1 and 2, or a Homeowner's Association, this criterion can be met.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the tract and easement described above and facilities within those areas. The maintenance agreement must address maintenance of the pervious pavement. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement 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.

Both proposed lots are on the north and south sides of east-west oriented streets, and are considered interior lots (not on a corner). In this context there is no preference that any one lot be wider or narrower than the other lots. This criterion is therefore 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. PBOT has provided the following findings (see Exhibit E.2):

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 adversely impacted as adequate parking will be provided on both lots and there are ample parking opportunities along shoulders on NE 155th Ave. The proposed lot split will not have any effect to transit service or any other mode of travel. The transportation system is capable of safely supporting the proposed development in addition to existing uses in the area.

PBOT has reviewed and concurs with the information. No mitigation is necessary for the transportation system to be capable of safely supporting the proposed development in addition to the existing uses in the area. 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><b>33.651 Water Service standard</b> – See Exhibit A.6 and E.3 for detailed bureau comments.</p>
<p>The Rockwood Water District 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><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. The new private street will serve as the route of sanitary service for Parcels 1 and 2. The sanitary sewer service standards of 33.652 have been verified.</p>
<p><b>33.653.020 &amp; .030 Stormwater Management criteria and standards</b> – See Exhibits E.1 &amp; E.5</p>
<p>No stormwater tract is proposed or required. Therefore, criterion A is not applicable.</p> <p>The applicant has proposed the following stormwater management methods:</p> <ul style="list-style-type: none"> <li> <p><b>Private Street:</b> The applicant provided presumptive approach infiltration test results of 10 inches/hour for the site and proposes pervious paving for the private street tract. BES has reviewed the infiltration rates and indicated conceptual approval of the proposed method of stormwater management for the private street. The paving material can be concrete, asphalt or other material that is approved in the SWMM. Any changes to the specific material and design will be reviewed with the site development permit and must meet BES and SWMM requirements. Site Development will review a pervious pavement protection plan showing how the pervious pavement will be protected during construction of the private street.</p> </li> </ul>

- **Parcel 2:** Stormwater from Parcel 2 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 has downspouts and it is unclear whether they meet BES and SWMM requirements. The applicant proposes to retrofit this Parcel with 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.

Prior to final plat approval the applicant must either:

- 1) Modify the stormwater disposal system serving the existing structure according to BES and SWMM requirements and obtain finalized permits as necessary; or
- 2) Demonstrate that stormwater discharge from the existing house currently meets SWMM requirements. If downspouts are routed to splashblocks, provide photos and show the direction of stormwater flow on a supplemental site utility plan. Downspouts discharged to splash blocks must discharge 5 feet from property lines and 10 feet from all neighboring structures. Indicate on a supplemental plan the locations of all downspouts, setbacks, and the direction of flow.

With the conditions noted above, this criterion is met.

#### **33.654.110.B.1 Through streets and pedestrian connections**

#### **33.654.130.C Future extension of proposed dead-end streets & 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 200 feet apart.

No street connections have been identified in the vicinity of this property in the Portland Master Street Plan document. The location of the subject site within its block is not a desirable location to provide a new public street or pedestrian connection through the block. It is not feasible without eliminating existing development on abutting lots to provide any additional connectivity. Considering the existing size of the subject site, providing a new public street or pedestrian connection through the subject site (or block) would likely compromise the ability to create one of the proposed parcels. These impacts do not make further connectivity through the subject site or block feasible.

As discussed under the findings for 33.654.110.B, adjacent sites to the east of the site are already developed and are not further dividable. There is no practicable opportunity to provide a through connection from the site, so there is no need to extend the proposed street to the eastern boundary of the site. This criterion is met

For the reasons described above, these criteria is met.

#### **33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.**

The proposal includes a private dead-end street, which will be located in the new private street tract. As discussed under the findings for through streets above, a new public east-west through street is not required for this proposal. The private dead-end street will serve only 2 dwelling units and it is approximately 178 feet in length from the frontage along NE 155th Avenue to the end of the street. This criterion is met.

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

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.

At this location, the City's Transportation System Plan classifies NE 155th Ave as a Local

Service street for all modes. According to City GIS, NE 155th Ave is improved with approx 22-ft of paving (no curb/sidewalk) within a 50-ft wide right of way (r.o.w). The standard r.o.w. improvements for this location are a 54-ft wide r.o.w., with a 26-ft wide roadway and two 14-ft wide sidewalk corridors (0.5-ft curb/8-ft wide stormwater management facility/ 5-ft wide sidewalk/0.5-ft wide furnishing zone).

Because none of the other frontages have been improved on this street, Portland Transportation has determined that an isolated improvement at this location would not be meaningful. If the street is to be improved, it would be more appropriate to complete the improvements as one LID project. Therefore, the applicant will be required to sign street and storm sewer waivers of remonstrance (for participation in future street and storm sewer improvements) prior to final plat approval. A 2-ft dedication of property will also be required to accommodate future improvements.

The applicant has proposed that a 20.03-foot wide private street tract is sufficient to accommodate the expected users. The *Administrative Rules for Private Rights of Way* are the standards that govern the construction of private streets. These rules recommend a width of 20 feet for dead-end streets less than 300 feet long, serving 1-3 lots. This width will provide room for the construction of a 16-foot wide paved roadway that allows two travel lanes, two 6-inch curbs and a 1-foot setback between the street improvements and private property. In this proposal, the applicant will be disposing of stormwater from the private street through pervious paving material. Street trees will be provided on each lot, within 5 feet of the street tract. Planting trees on the lots instead of within the street tract requires a covenant be recorded with the final plat stating that the trees are street trees and must be retained. A condition is also needed to ensure the street tree planting occurs in conjunction with building permits on the lots. The proposed tract width is sufficient to accommodate the elements of a street that are adequate for 2 lots by the *Administrative Rules* governing private streets.

Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met, with the condition that the required waivers are signed prior to final plat approval and the required right-of-way dedication is shown on the Final Plat and requirements described above for street trees are 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.

### **Future Development**

Among the various development standards that will be applicable to Parcel 2 the applicant should take note of:

- Street facing façade requirements for windows must be met on all street-facing facades. In this case the requirement applies to the entirety of the north and west facades. See 33.110.232.
- The main entrance requirement must be met on only one street-facing façade of the new house. See 33.110.110.230.



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

In this case, there are several Zoning Code standards that relate to 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 7.49 feet from the new property line to the east. The new property line to the south will be ~30 feet from the main entrance and dwelling unit building wall, but only ~11 feet from the garage entrance. Therefore, the required setbacks are being met to the east but not the south. To ensure this standard continues to be met at the final plat stage, modifications to the house will be required and the final plat must be accompanied by a current supplemental survey showing the location of the existing building relative to the new property lines.
- Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new lots to meet this standard, all accessory structures on Parcel 2 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary.
- Required Off-Street Parking – In this zone, one parking space per dwelling unit is required. A garage provides this required parking for the existing house on Parcel 1. As a result of this land division, the garage will need to be removed. In order to ensure that parking requirements continue to be met, a new parking pad or garage for the existing house must be constructed on Parcel 1 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.
- Street-Facing Facades in R10 through R2.5 Zones -- In this zone, street-facing facades of residential structures are required to have windows that comprise at least 15 percent of the façade area. The existing house that will remain on Parcel 1 is not currently required to meet this standard on the south elevation. After the land division, the south elevation will be a street-facing façade as it faces the new private street. Prior to final plat approval, the applicant must submit elevation drawings demonstrating that the south elevation meets this requirement or finalize a building permit to make modifications to the house that demonstrate compliance with 33.110.232.C.
- Main Entrance Location – In this zone, at least one main entrance of the house must be within 8 feet of the longest street facing wall of the dwelling unit and face the street, or be at a 45 degree angle from the street or open onto a porch that has an entrance that faces the street, is at least 25 square feet in area, and has a roof that is at least 30% solid and no more than 12 feet above the porch floor. Prior to final plat approval, the applicant must submit plans demonstrating that the house meets these requirements or finalize a building permit to make modifications to the house that demonstrate compliance with 33.110.230.

- Garage – In this zone, the length of a garage wall facing a street may be up to 50% of the length of the total building façade facing the street, and a garage wall that faces the street may be no closer to the street lot line than the longest street facing wall of the dwelling unit. Prior to final plat approval, the applicant must submit plans demonstrating that the house meets these requirements or finalize a building permit to make modifications to the house that demonstrate compliance with 33.110.253.

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 is required to make improvements to the proposed private street. Several conditions are required, including provision of plans and financial assurances, initiating a site development permit, and providing a maintenance agreement. In addition to the approval criteria of Title 33, these requirements are also based on the technical standards of Title 17 and Title 24.
- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements; installing a new hydrant with adequate fire flow; and recording an Acknowledgement of Special Land Use Conditions that requires the provision of internal fire suppression sprinklers on Parcel 2. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1.

The applicant received approval of Building Code Appeal #13716 for fire apparatus access road distance from buildings and turnarounds. The Appeal requires sprinklers for the new house on Parcel 2 and extends the access distance to ~290 feet (See Ex E.4).

## CONCLUSIONS

The applicant has proposed a 2-parcel partition with a new private street, 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. With conditions of approval that address these requirements this proposal can be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Preliminary Plan for a 2-parcel partition with a new private street, that will result in 2 single-dwelling parcels as illustrated with Exhibits C.1-C.4, 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 and BES review and approval. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The stormwater management system for the existing house on Parcel 1;
- 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 NE 155<sup>th</sup> Avenue. The required 2-foot right-of-way dedication must be shown on the final plat.
2. The private street tract shall be named, with approval from the City Engineer, and noted on the plat as "Tract A: Private Street *name of street*".
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, C.10 and C.11 below. The recording blocks shall, at a minimum, include language substantially similar to the following example:
  - "A Declaration of Maintenance Agreement for Private Street (Tract A) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."
  - "An Acknowledgement of Special Land Use Conditions has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."
  - "A Declaration of Covenant Requiring Front Yard Trees 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 complete street and storm sewer waivers of remonstrance (for future public street and storm sewer improvements) as required by the City Engineer. Waiver forms and instructions will be provided to the applicant during the final plat review process.
2. The applicant shall submit an application for a Site Development Permit for construction of the private street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The plans must be in substantial conformance with Exhibits C.1 - C.3 and the Private Street Administrative Rule, and must address the following:

- a. The design for the private street must include a driveway approach and curb cut in a location that can provide access to the new parking space required on Parcel 1, with the existing house that will remain.
  - b. The applicant shall provide a clearing and grading plan that shows the following:
    - Stockpile areas;
    - A note that topsoil must be stockpiled on site and re-used to the extent practicable.
    - The disturbance area may be increased to include stockpiling and vehicle maneuvering area related to private street construction.
  - c. The applicant must meet Site Development requirements to submit a pervious pavement protection plan and construction management plan showing how the pervious pavement will be protected from contamination by soil during the construction of the private right-of-way improvements and the development on the individual parcels.
3. The applicant shall furnish a financial guarantee of performance, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the private street and all required site development improvements. The applicant shall provide an engineer's estimate of the costs of performance including the costs for temporary erosion control measures required during construction. The financial guarantee of performance shall be accompanied by a performance agreement with the Bureau of Development Services to complete the required improvements.

#### **Utilities**

4. The applicant shall meet the requirements of the Fire Bureau for installing a new fire hydrant. The applicant must contact the Rockwood Water District for fee installation information related to the purchase and installation of fire hydrants. The applicant must purchase the hydrant and provide verification to the Fire Bureau that the Rockwood Water District will be installing the required fire hydrant, with the required fire flow and pressure.

#### **Existing Development**

5. The applicant must obtain finalized demolition permits for removing the accessory structures on Parcel 2.
6. The applicant must obtain a finalized building permit for alterations to the existing house that will remain on proposed Parcel 1 that demonstrate compliance with the standards listed below in relation to the proposed new lot lines. The permit plans must include the note: *This permit fulfills requirements of Condition C.10 of LU 15-270051 LDP.*
  - 33.110.232.C - Standards for Street-Facing Facades in the R10-R2.5 Zones must be met on the south façade.
  - 33.110.220 - Setbacks. Specifically, the permit must show removal of sufficient portions of the structure to meet the front setback requirement of 15 feet in the R7 zone. If a new garage is included in the alteration, a garage door must meet the garage entrance setback requirement of 18 feet.
  - 33.110.253 - If a new garage is included in the alteration, the garage wall must meet the requirements of 33.110.253, length of street-facing garage wall and street lot line setbacks.
  - 33.110.230.C – Main Entrance Location. At least one main entrance must be within 8 feet of the longest street-facing wall of the dwelling unit and face the street or open to a porch that meets the requirements of 33.110.230.C.2.c.3.
7. A parking space shall be installed on Parcel 1. The parking space must be a minimum of 9' x 18' and located out of the new front setback for the parcel with the existing house.

In addition, it must be in a location that can be accessed from the new street. The applicant does not need to connect the new parking space to the existing street with a paved driveway to meet this condition. A connecting driveway can be provided after the new street has been constructed. The parking space can be a parking pad or located within a new garage that meets the requirements outlined in condition C.6. If a parking pad is used to meet this requirement, the applicant must obtain a finalized Zoning Permit for installation of the parking space. If a garage is used to meet the requirement a building permit will be required. The permit plans must include the note: *This permit fulfills requirements of Condition C.11 of LU 15-270051 LDP.* The new parking space must also be shown on the supplemental plan.

8. Prior to final plat approval the applicant must either 1) Modify the stormwater disposal system serving the existing structure according to BES and SWMM requirements and obtain finalized permits as necessary; or 2) Demonstrate that stormwater discharge from the existing house currently meets SWMM requirements. If downspouts are routed to splashblocks, provide photos and show the direction of stormwater flow on a supplemental site utility plan.

#### **Required Legal Documents**

9. The applicant shall execute a Maintenance Agreement for the private street tract. The agreement shall assign common, undivided ownership of the tract to the owners of Parcels 1 and 2 and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The agreement must also acknowledge utility easements granted within the street tract that will provide for installation of private utility lines. The maintenance agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
10. The applicant shall execute an Acknowledgement of Special Land Use Conditions form referencing the Building Code Appeal 13710 and the requirement to install fire sprinklers on Parcel 2. The acknowledgement shall be referenced on and recorded with the final plat.
11. The applicant shall execute a covenant with the City that requires the planting and continued maintenance of two trees in the front yard of Parcel 1 within 5 feet of the private street tract. The covenant must meet the requirements of section 33.700.060 and must be referenced on and recorded with the plat.

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

1. The first lift of paving for the private street shall be installed prior to issuance of any permits for residential construction.
2. Prior to finalizing the Site Development permit for the private street, a plumbing permit must be obtained and finalized for the new utility lines that will be constructed beneath the paved surface of the new street.
3. Street trees must be installed on Parcel 1 prior to final inspection of the Site Development permit.
4. The applicant must meet the Fire Bureau requirements for addressing.
5. The applicant must install residential sprinklers in the new house on Parcel 2 to the satisfaction of the Fire Bureau.

**Staff Planner: Diane Hale**

Decision rendered by: Kimberly Tallant on August 22, 2016  
By authority of the Director of the Bureau of Development Services

**Decision mailed August 24, 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 November 25, 2015, and was determined to be complete on January 11, 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 November 25, 2015.

*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 requested that the 120-day review period be extended by 245 days. Unless further extended by the applicant, **the 120 days will expire on: January 10, 2017.**

**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](http://www.portlandonline.com).

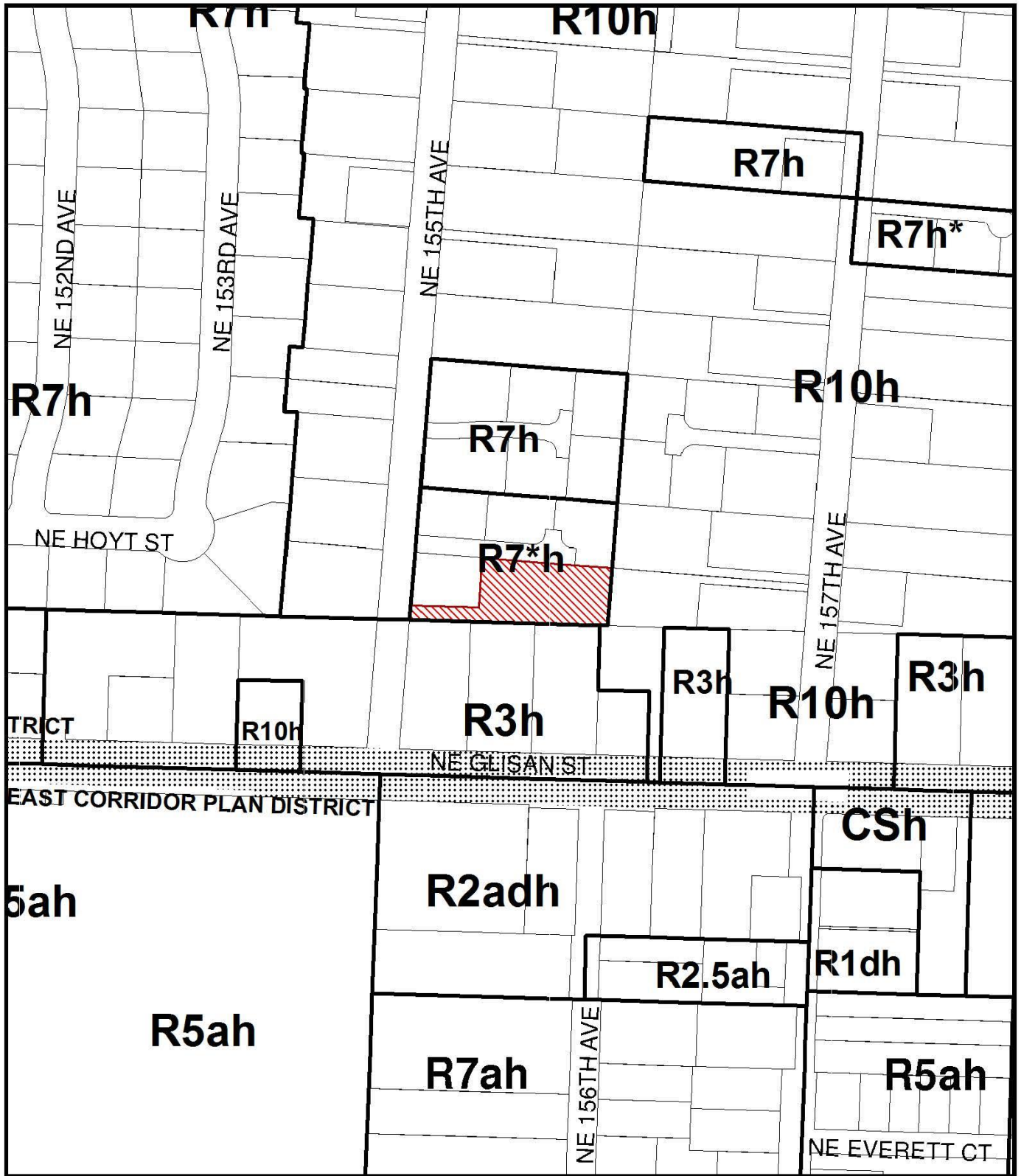
**Recording the land division.** The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director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

#### EXHIBITS


NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicant's original submittal and plans
  - 2. Applicant's response, January 11 2016
  - 3. Applicant's response, April 11, 2016
  - 4. Applicant's response, April 26, 2016 (See C exhibits for 4/26/16 submission)
  - 5. Stormwater Management Manual Simplified Approach Form, January 5, 2016
  - 6. Rockwood Water District Certification and Fire Flow, January 11 and April 11, 2016
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Preliminary Land Division Plan/Proposed Improvements Plan (attached)
  - 2. Preliminary Clearing and Grading Plan/Tree Preservation and Planting Plan
  - 3. Preliminary Construction Management Plan/Fire Code Requirements
  - 4. Existing Conditions 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. Life Safety Section of BDS
  - 7. Parks Urban Forestry
- F. Correspondence: None
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter
  - 3. Extension Form

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



# ZONING

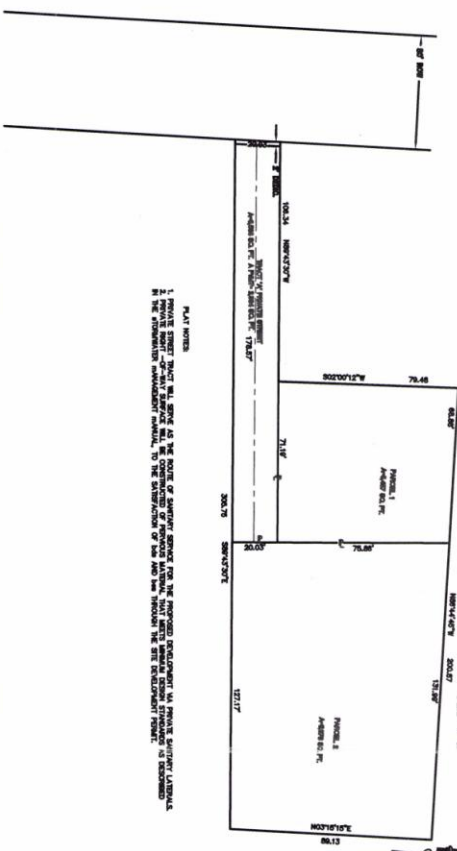
 Site



File No. LU 15-270051 LDP  
 1/4 Section 2946  
 Scale 1 inch = 200 feet  
 State\_Id 1N2E36AC 3002  
 Exhibit B (Dec 02, 2015)

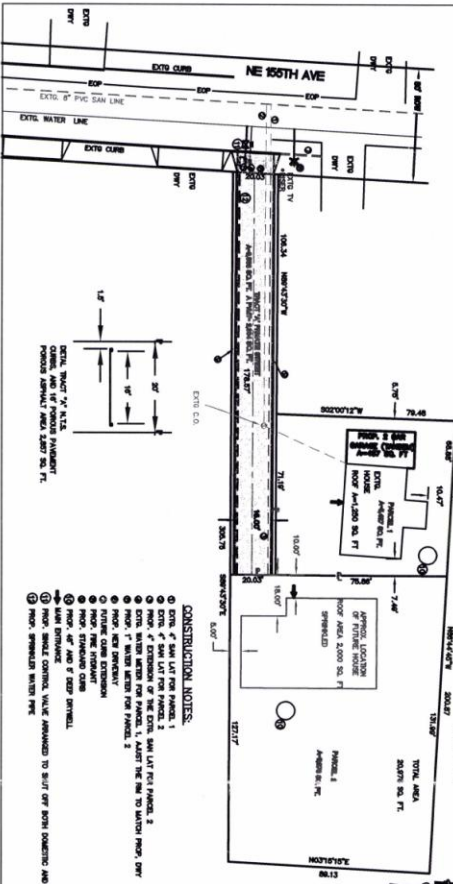


# PRELIMINARY LAND DIVISION PLAN

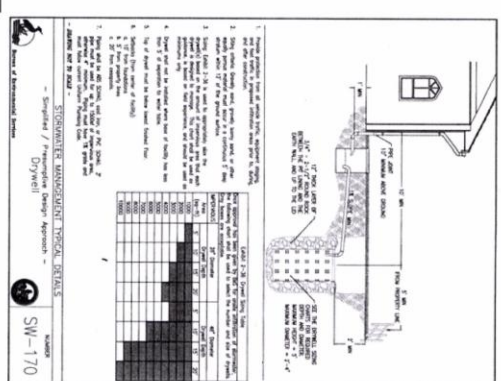
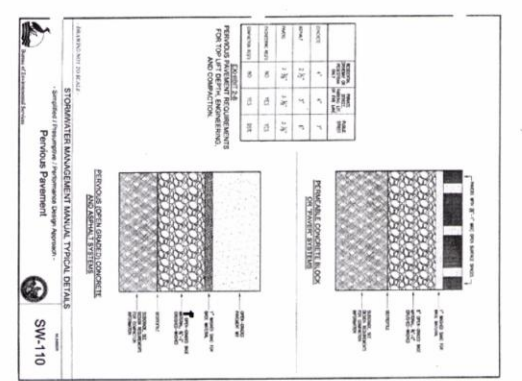


**PLAN NOTES**  
 1. PROVIDE CONCRETE DRIVEWAY SURFACE AS THE SCOPE OF IMPROVEMENT FOR THE PROPOSED IMPROVEMENTS. PROVIDE SUFFICIENT ALLEYS FOR THE PROPOSED IMPROVEMENTS. PROVIDE SUFFICIENT ALLEYS FOR THE PROPOSED IMPROVEMENTS. PROVIDE SUFFICIENT ALLEYS FOR THE PROPOSED IMPROVEMENTS.

# PROPOSED IMPROVEMENTS PLAN



- CONSTRUCTION NOTES:**
- 1. PROVIDE CONCRETE DRIVEWAY SURFACE AS THE SCOPE OF IMPROVEMENT FOR THE PROPOSED IMPROVEMENTS. PROVIDE SUFFICIENT ALLEYS FOR THE PROPOSED IMPROVEMENTS. PROVIDE SUFFICIENT ALLEYS FOR THE PROPOSED IMPROVEMENTS.
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CASE NO. 15-2700SI LDP  
 EXHIBIT C-1

<b>RSG ENGINEERING, CO.</b> CIVIL ENGINEERING / CONSTRUCTION MANAGEMENT 16802 NE 152ND AVE, BRUSH PRAIRIE, WA 98606 PH (503) 380-6179, FAX (360) 891-7945 E-MAIL: RSGENG@COMCAST.NET	PROJECT NAME: SEMENYUTA 2 LOS PARTITION <b>PRELIMINARY LAND DIVISION PLAN</b> PROPOSED IMPROVEMENT PLAN CLIENT: CONTACT NAME MARINA NOZZRIN 503-317-7444	SCALE: 1" = 10' DATE: 11-8-15 CASE FILE:	LEGAL: 1H 2 EAST TWP: 1N RANGE: 2 EAST SECTION: 36	DESIGNED: RSG CHECKED: RSG APPROVED:	SHEET: 2 OF: 4
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